Council of the District of Columbia
COMMITTEE ON THE JUDICIARY
COMMITTEE REPORT
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004

To: Members of the Council of the District of Columbia

From: Councilmember Kenyan R. McDuffie
Chairperson, Committee on the Judiciary

OFFICE OF THE SECRETARY
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Date: October 5, 2016

Subject: Report on Bill 21-0683, the "Comprehensive Youth Justice Amendment Act of 2016"

The Committee on the Judiciary, to which Bill 21-0683, the "Comprehensive Youth Justice Amendment Act of 2016" was referred, reports favorably thereon, and recommends approval by the Council of the District of Columbia.

CONTENTS

Statement of Purpose and Effect ____ Page 2
Legislative History ____ Page 25
Position of the Executive ____ Page 25
Advisory Neighborhood Commission Comments ____ Page 26
Witness List and Hearing Record ____ Page 26
Impact on Existing Law ____ Page 41
Fiscal Impact ____ Page 42
Section-by-Section Analysis ____ Page 42
Committee Action ____ Page 45
List of Attachments ____ Page 45

STATEMENT OF PURPOSE AND EFFECT

I. Background

Bill 21-0683, the "Comprehensive Youth Justice Amendment Act of 2016", was introduced by Councilmembers Kenyan R. McDuffie, Anita Bonds, David Grosso, LaRuby May, Brianne Nadeau, Elissa Silverman, and Chairman Phil Mendelson on April 5, 2016. The bill was co-sponsored by Councilmember Charles Allen and referred to the Committee on the Judiciary. The Committee held a public hearing on the bill on June 2, 2016.

II. Purpose and Effect

A. *Overview of the Juvenile Justice System in the District of Columbia*

The juvenile justice system in the District of Columbia is complex and multi-faceted. It incorporates numerous Federal and local agencies, all of which must collaborate, despite their varying degrees of independence. In addition to these agencies, the system also encompasses a broad array of community-based organizations that provide a wide variety of residential and non-residential services to youth throughout the system.

A juvenile who commits a crime in the District of Columbia might, for example, find themselves arrested by the Metropolitan Police Department, transferred to the Youth Services Center of the Department of Youth Rehabilitation Services ("DYRS"), evaluated by Family Court Social Services, petitioned by the Office of the Attorney General, defended by the Public Defender Service, adjudicated by the Family Court of the D.C. Superior Court, committed to DYRS, placed in a supervised group home, and provided services by a community-based organization at an Achievement Center.

Another juvenile might find themselves charged as an adult by the U.S. Attorney's Office, taken to the Correctional Treatment Facility of the Department of Corrections, sentenced by the Criminal Court of the D.C. Superior Court, and transferred to an out-of-state facility operated by the Federal Bureau of Prisons.

These are only two potential paths out of dozens that a child might take through the juvenile justice system. At every stage, a child might be diverted through programs like Alternatives to Court Experience ("ACE"). A child might also be released on probation by Court Social Services, placed on GPS monitoring, provided shelter care, or sent to an out-of-state residential treatment facility.

Despite the complexity of the system and the large number of stakeholders, there has been a growing consensus regarding both the purpose of the juvenile justice system and the best strategies to achieve that mission. This consensus might be best summed up by the Department of Youth Rehabilitation Services, whose stated mission is "to give court-involved youth the

opportunity to become more productive citizens by building on the strengths of youths and their families in the least restrictive, most homelike environment consistent with public safety."[1]

Several broad strategies have been identified as best practices both by the leadership of juvenile justice agencies in the District of Columbia and by jurisdictions across the country. These include a recognition that the best outcomes for both public safety and youth development tend to result from keeping juveniles close to home, from minimizing the use of secure detention, from providing juveniles with age appropriate services in age appropriate settings, and from rigorously evaluating the effectiveness of rehabilitation programs. The purpose of this bill is to undertake a series of balanced reforms that will ensure that the District continues its progress toward adopting these best practices.

These reforms are particularly timely given two recent trends in juvenile justice. First, there has been growing evidence related to the pace of brain development in adolescents and how the developing brain impacts decision-making and culpability. Second, the District in particular has seen a sustained decline in the number of court-involved juveniles at every level of the juvenile justice system.

B. *Advancing Child Development Science*

Recent research has shed new light on the development of the brain during adolescence.[2] This research has demonstrated that the frontal lobes of the brain, which control executive functions like "planning, working memory, and impulse control" are one of the last areas of the brain to develop and may not be fully developed until the mid-twenties.[3] This results in teenagers experiencing several behavioral changes, including increased novelty seeking, increased risk taking, and a social affiliation shift toward peer-based interactions.[4] As a result, adolescents have a more difficult time grasping long-term consequences and are more likely to have impaired judgment – both of which are factors in determining criminal culpability and the proportionality of punishment.[5]

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[1] Department of Youth Rehabilitation Services, Mission and Vision, *available at* http://dyrs.dc.gov/page/mission-and-vision.

[2] *See, e.g.,* Sara B. Johnson, *et al.*, Adolescent Maturity and the Brain: The Promise and Pitfalls of Neuroscience Research in Adolescent Health Policy, 45 JOUR. ADOLESCENT HEALTH 216 (2009), *available at* http://www.jahonline.org/article/S1054-139X(09)00251-1/pdf; Laurence Steinberg, Adolescent Development and Juvenile Justice, ANNU. REV. CLIN. PSYCHOL. 2009 5:47-73, *available at* http://fairsentencingofyouth.org/wp-content/uploads/2010/02/Adolescent-development-and-juvenile-justice.pdf; Coalition of Juvenile Justice, Emerging Concepts Brief – What Are the Implications of Adolescent Brain Development for Juvenile Justice, *available at* http://www.juvjustice.org/sites/default/files/resource-files/resource_134.pdf; American Bar Association Juvenile Justice Center, Cruel and Unusual Punishment: The Juvenile Death Penalty – Adolescence, Brain Development and Legal Culpability, January 2004, *available at* http://www.americanbar.org/content/dam/aba/publishing/criminal_justice_section_newsletter/crimjust_juvjus_Adolescence.authcheckdam.pdf.

[3] Sara B. Johnson, *et al.*, Adolescent Maturity and the Brain: The Promise and Pitfalls of Neuroscience Research in Adolescent Health Policy, 45 JOUR. ADOLESCENT HEALTH 216 (2009), *available at* http://www.jahonline.org/article/S1054-139X(09)00251-1/pdf.

[4] *Id.*

[5] Laurence Steinberg, Adolescent Development and Juvenile Justice, ANNU. REV. CLIN. PSYCHOL. 2009 5:47-73, *available at* http://fairsentencingofyouth.org/wp-content/uploads/2010/02/Adolescent-development-and-juvenile-justice.pdf.

This new science has been influential in driving the perspective of the Supreme Court on issues of juvenile sentencing and has undergirded research on the impact of housing juveniles in adult facilities and the negative impacts of room confinement.[6] Adolescents are not simply young adults. The juvenile justice system should, and increasingly has been recognizing that the developmental differences between adolescents and adults must give way to a different approach that recognizes both their reduced culpability and their capacity for rehabilitation and growth.

C. *Declining Court-Involved Juvenile Population*

Table 1: Juvenile Population of the District of Columbia's Juvenile Justice Agencies, 2011-2015

Juvenile Population	2011	2012	2013	2014	2015
New Juvenile Cases Filed[7]	3,419	2,800	3,194	2,594	1,815
Juvenile Case Dispositions[8]	3,351	2,851	3,054	2,557	1,803
Average Daily Number of Juveniles under CSS Supervision[9]	1,750	1,750	1,650	1,550	1,500
Total Annual Number of DYRS Committed Juveniles[10]	1,269	1,152	902	669	528
Average Number of DOC Incarcerated Juveniles[11]	38	22	25	15	17

[6] *See, e.g., Roper v. Simmons*, 543 U.S. 551 (2005); *Graham v. Florida*, 560 U.S. 48 (2010); *Miller v. Alabama*, 132 S. Ct. 2455 (2012); *Montgomery v. Louisiana*, 577 U.S. _____ (2016); Barry Holman & Jason Zeidenberg, The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities *available at* http://www.justicepolicy.org/images/upload/06-11_rep_dangersofdetention_jj.pdf; American Civil Liberties Union and Human Rights Watch, Growing Up Locked Down – Youth in Solitary Confinement in Jails and Prisons Across the United States, October 2012, *available at* https://www.aclu.org/files/assets/us1012webwcover.pdf .

[7] District of Columbia Courts, Statistical Summary 2015, *available at* http://dccourts.gov/internet/documents/2015-Statistical-Summary.pdf.

[8] *Id.*

[9] Superior Court of the District of Columbia, Family Court Annual Reports, *available at* http://www.dccourts.gov/internet/about/orgperf/annualreports.jsf.

[10] Department of Youth Rehabilitation Services, Council of the District of Columbia Committee on the Judiciary 2016 Performance Oversight Hearing Pre-Hearing Questions and Answers, *available at* http://dccouncil.us/files/user_uploads/budget_responses/TrackingYouthSuccess_1234578.pdf; Department of Youth Rehabilitation Services, Council of the District of Columbia Committee on the Judiciary 2015 Performance Oversight Hearing Pre-Hearing Questions and Answers, *available at* http://dccouncil.us/files/user_uploads/budget_responses/AgencyOperations3_1.pdf; Department of Youth Rehabilitation Services Fiscal Year 2012 Annual Performance Report, *available at* http://dyrs.dc.gov/sites/default/files/dc/sites/dyrs/page_content/attachments/DYRS_AR-low-res_041713.pdf; Department of Youth Rehabilitation Services 2011 Annual Performance Report, *available at* http://dyrs.dc.gov/sites/default/files/dc/sites/dyrs/publication/attachments/2011%20DYRS%20Annual%20Performance%20Report.pdf.

[11] Department of Corrections, Population Statistics, *available at* http://doc.dc.gov/sites/default/files/dc/sites/doc/publication/attachments/DOC%20Population%20Statistics_Jun%202016.pdf.

One of the clearest trends in the District's juvenile justice system has been a long-term decline in the total number of court-involved juveniles resulting from a number of factors, including a long-term decline in juvenile crime from its peak in the last 20 years and the increased use of diversion. This trend is evident in new juvenile case filings, juvenile case dispositions, juveniles on probation, juveniles committed to DYRS custody, and juveniles incarcerated by the Department of Corrections, as shown in the chart above.

These population shifts have had a profound effect on juvenile justice agencies in the District of Columbia, freeing up resources to refocus on community-based services and to begin addressing some of the underlying causes of juvenile delinquency. These population shifts have also allowed stakeholders to revisit the allocation of available space in secure facilities and to reconsider policies that were originally developed for a system that was both more punitive and less effective at providing opportunities for positive youth development and restorative justice.

D. *Keeping Juveniles out of the Justice System*

a. *Analyzing the Causes of Juvenile "Delinquency"*

Juvenile delinquency does not occur in a vacuum. An analysis of the population of juveniles committed to DYRS reflects that they are far from a representative sample of the District's population. 90% of DYRS committed youth have a mental health diagnosis.[12] 80% of committed youth have an Individualized Education Plan.[13] According to the most recent available statistics, the committed youth population is 81% male and 100% African-American.[14] 64% are from Wards 5, 7, and 8.[15] These statistics strongly suggest that juvenile delinquency is a symptom associated with underlying racial and economic inequities.

The Centers for Disease Control and Prevention has conducted research on this issue on a national level by analyzing the impact that Adverse Childhood Experiences ("ACEs") can have on violence victimization and perpetration.[16] ACEs can include exposure to abuse, household dysfunction, and criminal behavior as a child.[17] The accumulation of exposures to ACEs can have a lifelong impact on children and result in a higher risk of a broad range of social and health problems.[18]

The Committee believes that any long-term strategy to improve juvenile justice must include a rigorous analysis of the underlying conditions that may lead to criminal behavior, with

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[12] Department of Youth Rehabilitation Services, Council of the District of Columbia Committee on the Judiciary 2016 Performance Oversight Hearing Pre-Hearing Questions and Answers, *available at* http://dccouncil.us/files/user_uploads/budget_responses/TrackingYouthSuccess_1234578.pdf.
[13] *Id.*
[14] *Id.*
[15] *Id.*; Department of Youth Rehabilitation Services, Population Statistics for DYRS-Run Facilities, *available at* http://dyrs.dc.gov/page/youth-snapshot.
[16] Centers for Disease Control and Prevention, Adverse Childhood Experiences (ACEs), https://www.cdc.gov/violenceprevention/acestudy/index.html.
[17] Vincent J. Felitti, *et al.*, Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults, AM. J. PREV. MED. 1998: 14(4).
[18] *Id.*

the hope that the District can better target resources in the future to serve the needs of children in the community before criminal behavior occurs. To that end, the Committee Print directs the Criminal Justice Coordinating Council to analyze the root causes of juvenile crime, including the number of ACEs among the committed and incarcerated juvenile population and to prepare a report of its findings to the Mayor and the Council every two years. To ensure that the Criminal Justice Coordinating Council has access to the data necessary to complete this analysis, the Committee Print requires the cooperation of criminal justice agencies in the preparation of the report.

Finally, the Committee feels that any analysis of the background of committed and incarcerated youth would be incomplete without the voices of the youth themselves. A young person's own accounting of their experience can shed light on their decision-making in ways that a pure analysis of data might not. Therefore, the Committee Print mandates that the analysis of the Criminal Justice Coordinating Council must incorporate a voluntary survey of committed or incarcerated youth.

b. *Expanding Victim-Offender Mediation*

The Committee recognizes that prosecution and litigation are not, and should not be, the only form of dispute resolution available. Victim-Offender Mediation is a restorative justice approach that provides victims an opportunity to meet the offender, engage in a mediated discussion of the crime, and develop a restitution plan.[19] The Office of the Attorney General has, in selected juvenile cases, facilitated mediations that have resulted in positive outcomes for all parties involved. The Committee Print would support and codify this process by establishing a victim-offender mediation pilot program in the Office of the Attorney General, in coordination with community partners, that could serve as an alternative to prosecution in cases deemed appropriate by the Attorney General. Participation in the pilot program would remain voluntary for all parties.

c. *Reducing Unnecessary Arrests*

Under current District law, law enforcement officers are required to arrest any person the law enforcement officer has probable cause to believe "committed an intrafamily offense that resulted in physical injury..." or "committed an intrafamily offense that caused or was intended to cause reasonable fear of imminent serious physical injury or death."[20] In many cases of intrafamily violence, particularly in cases of intimate partner violence, a mandatory arrest provision may be a rational way to intervene in an abusive situation. This approach, however, is not always the most effective way to address other intrafamily offenses involving juveniles, such as adolescent domestic battery. Rather, the mandatory arrest provision can bar these juveniles from accessing diversion programs that are effective and available in other contexts and can also fail to address the underlying problems in the home.

The Models for Change Initiative of the John D. and Catharine T. MacArthur Foundation studied the issue of adolescent domestic battery in three partner sites in Illinois – Cook County,

[19] National Institute of Justice, Victim-Offender Mediation, http://www.nij.gov/topics/courts/restorative-justice/promising-practices/pages/victim-offender-mediation.aspx.
[20] D.C. Official Code § 16-1031.

DuPage County, and Peoria County.[21] These jurisdictions' experience and research demonstrated that adolescent domestic battery is different from intimate partner violence, that traditional approaches are ineffective, and that pre-arrest diversion, including behavioral health and community support services, was more effective at addressing the underlying family challenges that resulted in battery.[22] In DuPage County, for instance, 53% of diverted youth completed a 22-week program and, of those, only 5% committed a subsequent offense.[23]

Therefore, the Committee Print, at the request of the Office of the Attorney General, allows for diversion to a program that provides behavioral health and community support services as an alternative to mandatory arrest for children who commit an intrafamily offense that is not intimate partner violence. The Committee intends to carefully review the effectiveness of diversion in adolescent domestic battery cases to ascertain the impact of this change on recidivism and continued intrafamily violence.

d. *Sealing Juvenile Arrest Records*

The District of Columbia Code has two key provisions related to the sealing of juvenile records. D.C. Official Code § 16-2335 allows for the sealing of records of a person who has been the subject of a petition filed pursuant to § 16-2305 after two years have elapsed since the person was discharged from custody or supervision, assuming no other criminal or juvenile involvement has occurred. D.C. Official Code § 16-2335.02 authorizes the sealing of records of individuals who have been arrested or who have been the subject of a petition and whose prosecution was terminated without adjudication if the person can carry the burden of establishing their innocence.

The application of these two sections, taken together, reveal a gap in the law. Under D.C. Official Code § 16-2335, a person who was arrested and petitioned can have their juvenile records sealed two years after their discharge. Under D.C. Official Code § 16-2335.02, any person who was not adjudicated can have their juvenile records sealed immediately if they can demonstrate their innocence. Only persons who were arrested but not petitioned, and who cannot demonstrate their innocence may not have their arrest records sealed at all. To address this gap, the Committee Print allows for the sealing of records for individuals who have been arrested, but not petitioned two years after their discharge.

E. *Reducing Incarceration*

a. *Establishing a Minimum Age of Commitment*

Currently, there is no minimum age of commitment to DYRS. This means that, by law, children of any age are subject to commitment to the Department. DYRS, however, largely serves teenagers. In Fiscal Year 2015, approximately 75% of juveniles committed to DYRS were between

[21] Models for Change, Adolescent Domestic Battery: Responding Effectively to Families in Crisis, December 2012, *available at* http://www.modelsforchange.net/publications/627.
[22] *Id.*
[23] *Id.*

18 and 21, and only approximately 4% of juveniles were 15 or younger.[24] While the Department is dedicated to serving the needs of all youth committed to its care, the needs of very young children are substantially different than those of teenagers and young adults. In addition, children who are very young may be inherently less competent and culpable.

The District has available alternatives to commitment to DYRS that could better serve the needs of very young children, namely providing medical, psychiatric, or other treatment at an appropriate facility under protective supervision, providing parenting classes, providing family counseling, placing the child under protective supervision, transferring the child to a private organization that is authorized by law to receive and provide care for the child, or probation.[25]

Recognizing that very young children are distinctly different than older children, twenty-one states or territories have set a minimum age for a delinquency adjudication, thereby restricting commitment to an agency serving delinquent juveniles. The plurality of these – eleven states and territories – have set a minimum age of ten by statute.[26] Three states have set a minimum age of eight[27], five states have set a minimum age of seven[28], and one state has a minimum age of six.[29] The Minnesota Court of Appeals set a minimum age of 10 for delinquency adjudications in Minnesota.[30]

The Committee Print, rather than limiting the jurisdiction of the Family Court by setting a minimum age for delinquency adjudication, only limits the commitment of young juveniles to the Department of Youth Rehabilitation Services. The Committee Print does follow the plurality of jurisdictions that have acted, however, by setting a minimum age of ten for commitment.

b. *Strengthening the Presumption against Pre-Disposition Detention*

Current District law establishes a presumption against the detention of children alleged to be delinquent prior to a fact-finding hearing or a dispositional hearing and unless it appears that detention is required "to protect the person or property of others or of the child" or "to secure the child's presence at the next court hearing."[31] There is a rebuttable presumption that detention is necessary to protect the person or property of others if the judicial officer finds there is a substantial probability that the child committed a list of serious crimes that includes most dangerous crimes or crimes of violence while armed as well as the crime of carrying a pistol without a license.[32]

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[24] Department of Youth Rehabilitation Services, Council of the District of Columbia Committee on the Judiciary 2016 Performance Oversight Hearing Pre-Hearing Questions and Answers, *available at* http://dccouncil.us/files/user_uploads/budget_responses/TrackingYouthSuccess_1234578.pdf.
[25] D.C. Official Code § 16-2320(c).
[26] AM. SAMOA CODE ANN. § 45.0103; ARK CODE ANN. § 9-27-303(15); COLO. REV. STAT. § 19-2-104(1)(a); KAN. STAT. ANN. § 38-2302(s); LA. CHILD CODE ANN. ART. § 804(3); MISS CODE ANN. § 43-21-105(i); 42 PA. CONS. STAT. ANN. § 6302; S.D. CODIFIED LAWS § 26-8C-2; TEX. FAM. CODE § 51.02(2)(A); VT. STAT. ANN. TIT. 33 § 5102(2)(C); WIS. STAT. § 938.12(1).
[27] ARIZ. REV. STAT. § 8-201(13)(iv); NEV. REV. STAT. § 194.010(1); WAS. REV. STAT. § 9A.04.050.
[28] CONN. GEN. STAT. § 46b-120(1)(A)(i); MD. CODE ANN. CTS & JUD. PROC. § 3-8A-05(d); MASS. GEN. LAWS CH. 119 § 52; N.Y. FAM. CT. ACT. § 301.2(1); NDCC 12.1-04-01.
[29] N.C. GEN. STAT. ANN. § 7B-1501(7).
[30] *Matter of Welfare of S.A.C.*, 529 N.W.2d 517 (Minn. Ct. App. 1995).
[31] D.C. Official Code § 16-2310.
[32] *Id.*

For children who did not commit a dangerous crime or a crime of violence or commit the crime of carrying a pistol without a license, the existing presumption can have unjust results. First, the statute does not balance the potential harm to the person or property of others against the significant harm that children face when they enter secure detention. Second, the statute allows the use of secure detention to protect the child from harm, when secure detention is not the appropriate placement to safeguard the child and may have detrimental effects.

The Justice Policy Institute authored a report on the available evidence related to the impact of the use of detention on children and the community.[33] The report revealed that detention can actually increase recidivism, pull youth deeper into the justice system, interrupt the process of "aging out of delinquency", exacerbate mental illness, and put youth at greater risk of self-harm.[34] Detention can also disrupt education and employment.[35] Given these harms, it is important that the decision to detain a youth not be made lightly. Laura Hankins testified on behalf of the Public Defender Service at the Committee's hearing that judges had ordered children securely detained "for merely negative behavior, based on speculations of long-term harm... for missing school or even just being late to school... for smoking marijuana or for disrespecting their teachers."[36]

In order to ensure that secure detention is not used when the potential harm to others is *de minimis* or not substantial enough to balance the potential harm to the child caused by secure detention, the Committee Print permits the detention of a child only when it is necessary to protect the person or property of others from significant harm.

Detention can also be utilized currently to protect the person or property of the child being detained. This provision would purport to allow a child to be detained in a secure facility because of a risk that the child may be harmed, or that the child may be at risk of self-harm. In neither case is secure detention the appropriate response. Potential victims of crime should not be securely detained against their will, particularly when there is a risk of harm within the secure facility. For instance, in Fiscal Year 2015, there were 11.22 injuries per 1,000 bed nights at the Youth Services Center and 6.83 injuries per 1,000 bed nights at the New Beginnings Youth Development Center.[37]

In cases where there is a risk that a child may harm themselves, medical intervention is the appropriate response, as secure detention may in fact exacerbate the problem. Whether the child is a risk of harm to themselves or others, the D.C. Code already provides an alternative, appropriate placement option through shelter care, which is available when necessary "to protect the person of the child" or when "no alternative resources or arrangements are available to the family that would

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[33] Barry Holman & Jason Zeidenberg, The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities *available at* http://www.justicepolicy.org/images/upload/06-11_rep_dangersofdetention_jj.pdf.

[34] *Id.*

[35] *Id.*

[36] Laura E. Hankins, Special Counsel to the Director, Public Defender Service for the District of Columbia, Public Testimony at the Public Hearing on Bill 21-0683, the Comprehensive Youth Justice Amendment Act of 2016, June 2, 2016.

[37] Department of Youth Rehabilitation Services, Council of the District of Columbia Committee on the Judiciary 2016 Performance Oversight Hearing Pre-Hearing Questions and Answers, *available at* http://dccouncil.us/files/user_uploads/budget_responses/TrackingYouthSuccess_1234578.pdf.

adequately safeguard the child without requiring removal."[38] Therefore, the Committee Print prohibits the use of secure detention when the only justification for the placement is to protect the child themselves.

c. *Banning the Secure Detention of Status Offenders*

"Status offenders" are those offenders who committed an offense that is committable only by children. In the District of Columbia, status offenders are covered by the defined term "child in need of supervision", which is defined as a child who:

> "(A)(i) Subject to compulsory school attendance and habitually truant from school without justification;
> (ii) has committed an offense committable only by children; or
> (iii) is habitually disobedient of the reasonable and lawful commands of his parent, guardian, or other custodian and is ungovernable; and
> (B) Is in need of care or rehabilitation."[39]

Offenses committable only by children include running away, skipping school, breaking curfew, or the underage use of alcohol. These offenses are of a different nature than juvenile delinquency and are treated differently under federal law. The federal Juvenile Justice Delinquency Prevention Act prohibits states that receive the associated federal funding from securely detaining status offenders unless they were charged with possessing a handgun, have violated a valid court order, or are held in accordance with the Interstate Compact on Juveniles.[40] According to the most recent available data, 28 states and territories did not use the Valid Court Order exception to lock up status offenders.[41]

Relatedly, Congress is currently considering the reauthorization of the Juvenile Justice Prevention Act. The House of Representatives passed the legislation with a 382-29 vote on September 22, 2016, and is now under consideration by the Senate.[42] The legislation would make several significant juvenile justice reforms, including phasing out the Valid Court Order exception for status offenders by 2020, thereby ending the secure detention of most status offenders across the country.[43]

In the District of Columbia, status offenders continue to be detained, despite the growing recognition that it is not the best placement to serve the youth.[44] The Committee Print ends this

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[38] D.C. Official Code § 16-2310(b).
[39] D.C. Official Code § 16-2301(8).
[40] Juveniles Justice Delinquency Prevention Act, approved September 7, 1974 (88 Stat. 1109; 42 U.S.C. § 5633(a)(11)).
[41] Office of Juvenile Justice and Delinquency Prevention, FY 2014 Valid Court Order Usage, *available at* http://www.ojjdp.gov/compliance/FY2013-FY%202014VCO-state.pdf.
[42] Supporting Youth Opportunity and Preventing Delinquency Act of 2016, 114th Congress, passed the House of Representatives on September 22, 2016 (H.R. 5693).
[43] *Id.* at Section 205.
[44] D.C. Official Code § 16-2320(d); Natalie O. Ludaway, Chief Deputy Attorney General for the District of Columbia, Office of the Attorney General, Public Testimony at the Public Hearing on Bill 21-0683, the Comprehensive Youth Justice Amendment Act of 2016, June 2, 2016.

practice and brings the District in line with the national trend by prohibiting both the predisposition and post-disposition secure detention of status offenders who are not adjudicated delinquent. Available alternative placements for this population under District law include group homes and shelter care. The Committee recommends continued investment in these alternative placements to ensure that they can meet the needs of the status offender population.

d. *Ending Commitment of Status Offenders at Age 18*

While the District's juvenile justice system serves youth who commit offenses under the age of 18, their probation or commitment may last until their 21st birthday or when it appears the purpose of the disposition order has been achieved.[45] For delinquent children, the additional time provides an opportunity for rehabilitation and may help keep older adolescents out of the adult criminal justice system. For children in need of supervision, however, the maximum age of juvenile custody means that the child can remain on probation or committed for actions that are only offenses for children. This results in the prospect of a 19 or 20-year old youth remaining in custody for offenses like running away or skipping school. The Committee Print addresses this inequity by terminating the dispositional orders of children in need of supervision once they reach their eighteenth birthday.

F. *Age-Appropriate Sentencing*

a. *Ending the Use of Juvenile Life without Parole Sentences*

The Supreme Court has become been increasingly critical of the application of harsh, adult sentences to juveniles in recent years. The line of cases on this topic began in 2005, in *Roper v. Simmons*, where the Supreme Court ruled 5-4 that imposing the death penalty for a crime committed by a child under the age of 18 violated the Constitutional prohibition on cruel and unusual punishment.[46] Justice Kennedy, writing for the Court, noted three key differences between juveniles and adults, they have "[a] lack of maturity and an underdeveloped sense of responsibility", they are "more vulnerable or susceptible to negative influences and outside pressures", and that "the character of a juvenile is not as well formed as that of an adult."[47] As a result, the Court held that "[t]he differences between juvenile and adult offenders are too marked and well understood to risk allowing a youthful person to receive the death penalty despite insufficient culpability".[48]

In *Graham v. Florida*, the Supreme Court, in a 6-3 decision, extended *Roper*'s reasoning to life sentences without the possibility for non-homicide crimes committed under the age of 18.[49] Justice Kennedy again wrote the opinion for the Court, stating that "when compared to an adult murderer, a juvenile offender who did not kill or intend to kill has a twice diminished moral culpability."[50] Justice Kennedy further explained that "[l]ife without parole is an especially harsh

[45] D.C. Official Code § 16-2322(a)(4).
[46] *Roper v. Simmons*, 543 U.S. 551 (2005).
[47] *Id.* at 569-70.
[48] *Id.* at 572-573.
[49] *Graham v. Florida*, 560 U.S. 48 (2010).
[50] *Id.* at 69.

punishment for a juvenile" and that "only 11 nations authorize life without parole for juvenile offenders under any circumstances; and only 2 of them, the United States and Israel, ever impose the punishment in practice."[51]

Finally, in 2012, the Supreme Court ruled in *Miller v. Alabama* that it was unconstitutional to impose a mandatory life without parole sentence on an individual who was under the age of 18 at the time of the crime, as they did not offer sufficient opportunity for the court to consider the defendant's youth.[52] Therefore, the sentence must "must take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison".[53] The Court did not consider a categorical bar on life without parole sentences for juveniles, but noted that due to "children's diminished culpability and heightened capacity for change... appropriate occasion for sentencing juveniles to this harshest possible penalty will be uncommon".[54] The Supreme Court further ruled in *Montgomery v. Louisiana* that the categorical prohibitions established in this line of cases were retroactive.[55]

Therefore, under controlling Supreme Court precedent, juvenile life without parole sentences are only available for homicide offenses, and only if they are not mandatory for the sentencer. Given the developing case law of the Supreme Court and increasing understanding of the impact that age has on the culpability of children, 17 states currently ban the use of life without parole sentences for children.[56]

The District of Columbia already prohibits juvenile life without parole for the crime of murder in the first or second degree.[57] The penalty, though, is still available for a handful of more serious crimes.[58] While the severity of these crimes is not open to debate, the rationality of continuing to imprison an individual into old age for a crime they committed as a child, without any opportunity to review that decision, is subject to serious question in the District and across the country. Therefore, the Committee Print bans the use of life without parole sentences for crimes committed when the individual was under the age of 18.

b. *Eliminating Mandatory Minimums for Juveniles*

Many states have recognized, as the Supreme Court did in the *Miller* line of cases, that the sentencer in a criminal case should have the opportunity to consider whether a child's status as a child should be considered during sentencing. Several have begun to recognize that the same rationale that exists for prohibiting mandatory life without parole sentences for children tried as adults applies equally to mandatory minimum sentences.

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[51] *Id.* at 80.
[52] *Miller v. Alabama*, 132 S. Ct. 2455 (2012).
[53] *Id.* at 2469.
[54] *Id.*
[55] *Montgomery v. Louisiana*, 577 U.S. _____ (2016).
[56] *The Campaign for the Fair Sentencing of Youth,* Righting Wrongs: The Five-Year Groundswell of State Bans on Life without Parole for Children, September 2016, *available at* http://fairsentencingofyouth.org/wp-content/uploads/2016/09/Righting-Wrongs-.pdf.
[57] D.C. Official Code § 22-2104.
[58] *See* D.C. Official Code § 22-2106; D.C. Official Code § 3020; D.C. Official Code § 22-3153.

In 2005, the Washington State Legislature, in banning the application of mandatory minimum sentences to juveniles, found that:

> [E]merging research on brain development indicates that adolescent brains, and thus adolescent intellectual and emotional capabilities, differ significantly from those of mature adults. It is appropriate to take these differences into consideration when sentencing juveniles tried as adults. The legislature further finds that applying mandatory minimum sentences for juveniles tried as adults prevents trial court judges from taking these differences into consideration in appropriate circumstances.[59]

Iowa followed Washington State in 2014, but by order of the Iowa Supreme Court.[60] The Iowa Supreme Court, in reviewing a challenge to the application of the state's mandatory minimums to juveniles, recognized that "children lack the risk-calculation skills adults are presumed to possess and are inherently sensitive, impressionable, and developmentally malleable" and that "the best interests of the child generally support discretion in dealing with all juveniles."[61] Applying the principles in the U.S. Supreme Court's decision in *Miller*, the court held that mandatory minimum for juveniles violated the prohibition of cruel and unusual punishment under the Iowa Constitution.[62] The Court expressed particular concern that a mandatory minimum sentence for a juvenile "deprives the district court of discretion in crafting a punishment that serves the best interests of the child and society."[63]

A Florida judge recently followed Iowa's lead by striking down a 40-year mandatory minimum sentence for minors.[64] Circuit Judge William Fuente held that a statutory scheme specifically designed to comply with *Graham* and *Miller* still did not meet constitutional muster, as the 40-year mandatory minimum prevented "a sentencing court from exercising the full extent of judicial discretion that *Miller* requires."[65]

The application of mandatory minimum sentences to anyone has been controversial nationwide, resulting in calls for reform at the state and federal levels.[66] A review of the use of mandatory minimums for adults is outside the scope of this bill, but the potential for injustice when mandatory minimums are applied to juveniles is undeniable. While juveniles may be charged as adults in the District of Columbia, and thereby lose many of the protections and services available in the juvenile system, the court should, at a minimum, have the opportunity to issue a sentence that is proportionate to the crime committed and to the level of culpability of a juvenile defendant.

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[59] An Act Relating to elimination of mandatory minimum sentences for youthful offenders tried as adults; amending RCW 9.94A.540; and creating a new section; H.B. 1187 (2005).
[60] *State v. Lyle*, 854 NW 2d 378 (Iowa 2014).
[61] *Id.* at 389.
[62] *Id.* at 402.
[63] *Id.*
[64] *State of Florida v. Christopher Burton*, Case No. 94-10478, (Fla. 13th Cir. Ct. 2016).
[65] *Id.*
[66] *See, e.g.*, Families Against Mandatory Minimum, Recent State-Level Reforms to Mandatory Minimum Laws, *available at* http://famm.org/wp-content/uploads/2013/08/FS-List-of-State-Reforms-6.30.pdf; United States Sentencing Commission, 2011 Report to the Congress Mandatory Minimum Penalties in the Federal Criminal Justice System, *available at* http://www.ussc.gov/research/congressional-reports/2011-report-congress-mandatory-minimum-penalties-federal-criminal-justice-system.

The Committee Print therefore applies the reasoning of recent federal and state court jurisprudence by allowing judges the discretion to impose sentences below the mandatory minimum sentences for juveniles charged as adults.

c. *Establishing a Sentence Review Procedure for Juveniles*

In *Graham*, the Supreme Court held that juveniles given life sentences must be given "some realistic opportunity to obtain release" so that a juvenile defendant can "demonstrate that he is fit to rejoin society."[67] The Court left it to the states to "explore the means and mechanisms for compliance" as long as they do not make "the judgment at the outset that those offenders never will be fit to reenter society.[68] What a "realistic opportunity to obtain release" should look like has been the subject of nationwide discussion.[69] Several states, including those without parole, have taken this opportunity to establish or strengthen sentence review provisions for juveniles sentenced to lengthy terms.

In 2014, Florida enacted a provision that, with certain exceptions, allows a court to review the sentence of a juvenile charged as an adult for an offense committed as a juvenile after 15, 20, or 25 years depending on the length of the original sentence.[70] Delaware likewise created a judicial review mechanism to review the sentences of offenders who committed crimes prior to their eighteenth birthday after 20 or 30 years, depending on the crime.[71] At the Federal level, legislation is under consideration that would require a sentence review for defendants convicted as an adult for an offense committed as juvenile after they served 20 years.[72]

The Committee Print adopts a similar sentence review mechanism for the District of Columbia. The bill permits the court to reduce a term of imprisonment imposed upon a defendant convicted as an adult of offenses committed prior to the defendant's 18th birthday if they have served 25 years in prison after a motion by the defendant. The court can take into consideration a number of factors, including the defendant's age at the time of the offense, the defendant's compliance with the rules of the institution in which they have been confined, the recommendations of the United States Attorney, whether the defendant has demonstrated maturity and rehabilitation, any statement from the victim, and any other information the court deems relevant to its decision. If the defendant's initial application is unsuccessful, they may make a second application five years after the order on the first application, and a third and final application five years after the order on the second application.

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[67] *Graham v. Florida*, 560 U.S. 48, 79-82 (2010).
[68] *Id.* at 75.
[69] *See, e.g.*, Rebecca Lowry, The Constitutionality of Lengthy Term-of-Years Sentences for Juvenile Non-Homicide Offenders, 88 ST. JOHN'S LAW REV. 3:9 (2015).
[70] FLA. STAT. § 921.1402.
[71] 11 DEL. C. § 4204A.
[72] Sentencing Reform and Corrections Act of 2016, 114th Congress, (S.2123).

G. *Improving Conditions of Confinement*

a. *Transferring Title 16 Youth to DYRS Custody*

The determination of whether a young person is a "child" under District law is more complex than might be assumed. The D.C. Official Code states:

> (3) The term "child" means an individual who is under 18 years of age, except that the term "child" does not include an individual who is sixteen years of age or older and –
>
> (A) charged by the United States attorney with (i) murder, first degree sexual abuse, burglary I the first degree, robbery while armed, or assault with intent to commit any such offense, or (ii) an offense listed in clause (i) and any other offense properly joinable with such an offense;
>
> (B) charged with an offense referred to in subparagraph (A)(i) and convicted by plea of a lesser included offense; or
>
> (C) charged with a traffic offense.
>
> For purposes of this subchapter the term "child" also includes a person under the age of twenty-one who is charged with an offense referred to in subparagraph (A)(i) or (C) committed before he attained the age of sixteen, or a delinquent act committed before he attained the age of eighteen.[73]

In other words, a child is an individual under 18 years of age unless they were over 16 and charged by the U.S. Attorney with one of an enumerated list of crimes. In addition, an individual can remain a "child" for purposes of District law until they reach the age of 21 if the individual is charged for one of several crimes committed before they reach the age of 16, or a delinquent act committed before they were 18 – thereby allowing additional time in the juvenile justice system for rehabilitation for older juveniles. Finally, a person sixteen or older is not a child if they were charged with a traffic offense, reflecting the fact that traffic offenses are treated the same for all drivers of legal driving age.

While not stated in the definition of "child", the Office of the Attorney General may file a motion requesting the transfer of a child for criminal prosecution if:

> (1) the child was fifteen or more years of age at the time of the conduct charged, and is alleged to have committed an act which would constitute a felony if committed by an adult;
>
> (2) the child is sixteen or more years of age and is already under commitment to an agency or institution as a delinquent child;
>
> (3) a minor eighteen years of age or older is alleged to have committed a delinquent act prior to having become eighteen years of age; or
>
> (4) a child under 18 years of age is charged is charged with the illegal possession or control of a firearm within 1000 feet of a public or private day care center, elementary school, vocational school, secondary school, college, junior college, or

[73] D.C. Official Code § 16-2301(3).

university, or any public swimming pool, playground, video arcade or youth center, or an event sponsored by any of the above entities ...[74]

Though the Office of the Attorney General's ability to move that a child be transferred to the criminal court is broader then the power of the U.S. Attorney, it is subject to the ruling of the Family Court after a hearing.[75] These procedural protections ensure that the transfer decision is based on an individualized consideration of the case.

On the other hand, the charging decision of the U.S. Attorney itself – not currently subject to a hearing – can have enormous consequences for a young person, as it redefines a child as an adult for purposes of District law. Whether this formulation means that the charging decision of the U.S. Attorney is truly "unfettered", and, if it is, whether this legal scheme may be unconstitutional, has been the subject of substantial debate inside and outside the courtroom.[76] Regardless, the independent decision of the U.S Attorney currently impacts the sentences that a young person can receive, their trial, the privacy protections they enjoy, the agency that has custody over them, and the facilities in which they are housed.

Separate from the discussion of the legality of the U.S. Attorney's charging authority, but of perhaps equal importance to juvenile justice reform in the District, is the ongoing debate over whether the Council has the authority to amend the definition of child.[77] Two separate restrictions on the Council's authority are of relevance in this debate. First, the Council is prohibited from passing "any act, resolution, or rule with respect to any provision of Title 11 (relating to organization and jurisdiction of the District of Columbia courts)".[78] The jurisdiction of the Family Court is established in Title 11 to include proceedings in which "a child, as defined in § 16-2301, is alleged to be delinquent, neglected or in need of supervision."[79] Therefore, some argue, an amendment to the definition of "child" necessarily implicates a provision of Title 11 relating to the jurisdiction of the District of Columbia courts.

The Council is also prohibited from enacting "any act or regulation ... relating to the duties or powers of the United States Attorney".[80] Altering the U.S. Attorney's ability to charge a child as an adult without review may, or may not, impermissibly relate to the powers of the United States Attorney.

The determination of whether the Council may permissibly make substantive amendments to the definition of "child" has wide-ranging consequences – impacting the Council's ability to enact potentially positive reforms like expanding access to Special Immigrant Juvenile Status,

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[74] D.C. Official Code § 16-2307.
[75] *Id.*
[76] *See, e.g., Brown v. United States*, 343 A.2d 48 (D.C.C.A. 1975); V. Noah Gimbel, There Are No Children Here: D.C. Youth in the Criminal Justice System, 104 GEORGETOWN LAW JOURNAL 1307 (2016).
[77] *See, e.g.,* Dave Rosenthal, Senior Assistant Attorney General, Office of the Attorney General, Public Testimony at the Public Hearing on Bill 20-0825, the Youth Offender Accountability and Rehabilitation Act of 2014, October 22, 2014; R. Daniel Okonkwo, D.C. Lawyers for Youth, Public Testimony at the Public Hearing on Bill 2-0683, the Comprehensive Youth Justice Amendment Act of 2016, June 2, 2016.
[78] D.C. Official Code § 1-206.02(a)(4).
[79] D.C. Official Code § 11-1101(a)(13).
[80] D.C. Official Code § 1-206.02(a)(8).

establishing a reverse waiver provision to allow Court review of the U.S. Attorney's charging decisions, expanding the age of Family Court jurisdiction, or revisiting the "once an adult, always an adult" policy.

While the Committee believes that the duly elected representatives of the District of Columbia should have the authority to make fundamental decisions about who counts as a child in our community, the Committee Print does not require that the previously stated questions regarding children charged as adults be answered. Rather, the Committee Print would ensure that an individual's age is given appropriate consideration in the decision whether to arrest or detain the individual, their sentencing, the agency which is given custody over the individual, the facility in which the individual is housed, and the individual's treatment in those facilities.

The Committee Print asserts the District government's authority to recognize the meaningful differences between children and adults, regardless of how they are charged or tried, by requiring transfer of all detained individuals under the age of 18 from the custody of the Department of Corrections to DYRS by October 1, 2018. DYRS is the agency best equipped to meet the needs of children, with appropriately trained staff and a focus on rehabilitation and positive youth development. The Department of Corrections has made great strides in recent years in providing services to the juveniles under its care, but the very small number of juveniles relative to the number of adults held by the agency continues to detract from youth rehabilitation.

b. *Transferring Title 16 Youth to Juvenile Facilities*

Though the Committee Print requires a change in the custody of detained individuals under the age of 18 to DYRS by October 1, 2018, the Print does not mandate an immediate change in the facility that these individuals are housed. Custody is defined in the Code to include:

> (i) Physical custody and the determination of where and with whom the minor shall live;
> (ii) The right and duty to protect, train, and discipline the minor; and
> (iii) The responsibility to provide the minor with food, shelter, education, and ordinary medical care.[81]

The Committee Print does not mandate a change in facilities by a date certain due to a recognition that space must be available in the existing secure juvenile facilities to house the detained juveniles before the transfer can take place. The Youth Services Center of DYRS currently experiences periodic over-crowding, which can impact staff and youth safety, youth services, and the overall efficient operation of the facility. New Beginnings, on the other hand, recently opened a unit for committed young women, reducing the available space in the facility.

Furthermore, DYRS continues to operate under a consent decree in the *Jerry M.* case. DYRS has made steady progress toward exiting the consent decree, and a Partial Class Action Settlement Agreement was approved in 2015.[82] Nonetheless, several aspects of the agency's

[81] D.C. Official Code § 2-1515.01(5)(A).
[82] *Jerry M. v. District of Columbia*, Civil Action No. 1519-85, Notice to Class Members of Proposed Settlement Agreement, *available at*

operation remain under court supervision, including incidents and assaults, supervision and staffing, mental health and health services, and fire safety.[83] The Committee was cognizant of these goals in crafting a policy that would not mandate the transfer of juveniles to the Youth Services Center or New Beginnings until a finding has been made that space for the additional youth is consistently available.

Currently, youth charged as adults in the District are housed at the Correctional Treatment Facility. In 2013, the Ridley Group conducted an assessment of the Juvenile Unit at the Correctional Treatment Facility and found that:

> When juveniles are housed in adult prisons and jails, the ability to provide for their safety, welfare and rehabilitation is much more difficult. Achieving the goal of reducing recidivism requires the ability and willingness to create a full system of programming and services that meet the needs of the incarcerated juvenile and their family members. Information gathered during the onsite observations demonstrates that juveniles at CTF have needs far greater than the services currently provided.[84]

The report further explained that "[t]he Unit space is in inadequate for the population served... [t]he school is cramped and the unit does not have dedicated programming or recreation space".[85] And the report concluded that the programming offered is "insufficient and needs to be expanded."[86] While the Department of Corrections has improved the operation of the juvenile unit in the last few years, the physical structure of a facility built for adults and the constraints related to housing adults and juveniles in close proximity continue to negatively impact juveniles housed at CTF.

Transfer of individuals under the age of 18, even when charged as adults, out of adult facilities and into juvenile facilities would not violate Federal sight-and-sound separation requirements. In fact, regulations require sight-and-sound separation of Title 16 youth from adult inmates at the Correctional Treatment Facility. Specifically, the Federal regulations require that "[a] youthful inmate shall not be placed in a housing unit in which the youthful inmate will have sight, sound, or physical contact with any adult inmate through use of a shared dayroom or other common space, shower area, or sleeping quarters."[87] These regulations are only applicable in adult facilities to separate those individuals under the age of 18 from those over the age of 18, and do not apply in the context of secure juvenile facilities.[88]

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http://dyrs.dc.gov/sites/default/files/dc/sites/dyrs/page_content/attachments/The%20Class%20Notice%20of%20Settlement.pdf.

[83] *Id.*

[84] The Ridley Group, The District of Columbia Department of Corrections Correctional Treatment Facility Juvenile Unit Assessment, *available at* http://doc.dc.gov/sites/default/files/dc/sites/doc/release_content/attachments/DOC%20CTF%20JUV%20ASSESSMENT%20REPORT.pdf.

[85] *Id.*

[86] *Id.*

[87] 28 C.F.R. § 115.14.

[88] 28 C.F.R. § 115.15.

The Federal government has, in fact, moved toward prohibiting the housing of juveniles charged as adults in adult facilities.[89] The Supporting Youth Opportunity and Preventing Delinquency Act of 2016, which overwhelmingly passed the House of Representatives on September 22, 2016, would generally prohibit the housing of juveniles who are charged as adults in adult facilities within three years of the passage of the act.[90] While Federal policy does not require sight-and-sound separation between juveniles charged as adults and other juveniles in juvenile facilities, the Committee understands that separation of the populations may still be maintained as a matter of policy. The Committee Print mandates only the transfer of individuals to juvenile facilities after a finding that space is consistently available and leaves the assignment of units within juvenile facilities to the agency's discretion.

As of September 9, 2016, 24 juveniles were in the custody of the Department of Corrections.[91] Of those juveniles, 17 were being held pre-trial, 1 was in court, and 6 had been sentenced.[92] The number of juveniles that have been securely detained at DYRS facilities over the previous six months are as follows:

Table 3: Juvenile Population at DYRS Secure Facilities, March – August 2016

Juvenile Population at DYRS Secure Facilities[93]						
	3/1/2016	*4/1/2016*	*5/1/2016*	*6/1/2016*	*7/1/2016*	*8/1/2016*
New Beginnings Capacity - 60	31	32	30	32	26	30
Youth Services Center Capacity - 88	87	77	109	94	94	72

The long-term reduction in the number of DYRS committed youth, and the focus on providing community-based services may result in further population declines in the facilities. In addition, a number of provisions in the Committee Print should also reduce the number of juveniles in secure detention at DYRS – resulting in excess capacity in juvenile facilities.

Therefore the Committee Print would transfer juveniles under the age of 18 from the Correctional Treatment Facility to one of the secure juvenile facilities within 6 months of a finding by the Mayor that the number of excess beds at juvenile facilities exceeded the number of juveniles at the Correctional Treatment Facility for four consecutive quarters. To ensure compliance, the Mayor would be required to report the relevant statistics to the Council each quarter. The Committee Print, therefore, puts the District on the trajectory of removing all juveniles from adult facilities, while ensuring that doing so does not exacerbate over-crowding or impact DYRS's exit from the *Jerry M.* consent decree.

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[89] Supporting Youth Opportunity and Preventing Delinquency Act of 2016, 114th Congress, passed the House of Representatives on September 22, 2016 (H.R. 5693).
[90] *Id.* at Section 205.
[91] E-Mail from Sylvia Lane, Juvenile Charges and Classification 9.9.16, September 9, 2016.
[92] *Id.*
[93] Department of Youth Rehabilitation Services, Population Statistics for DYRS-Run Facilities, *available at* http://dyrs.dc.gov/page/youth-snapshot.

c. *Restricting the Use of Room Confinement*

A national campaign to "Stop Solitary for Kids" was launched at the National Press Club on April 19, 2016. The campaign aims to build on successful reforms in jurisdictions across the country and to "end solitary confinement of youth in juvenile and adult facilities in the United States."[94] The campaign is being led by the Center for Children's Law and Policy, the Center for Juvenile Justice Reform, the Council of Juvenile Correctional Administrators, and the Justice Policy Institute.[95] This campaign has brought critical attention to the detrimental impact of solitary confinement on youth and the need for reform.

Research on the impact of solitary confinement on juveniles is still developing, but the Office of Juvenile Justice and Delinquency Prevention, the American Civil Liberties Union, and Human Rights Watch have all evaluated the use of solitary confinement on juveniles and found that it can result in emotional damage, psychological harm, anxiety, self-harm, suicidal thoughts and attempts, barriers to accessing mental and physical health care, lack of adequate exercise, and limited social development.[96] President Barack Obama, in a recent op-ed in the *Washington Post*, noted this research and the recently completed report on the use of solitary confinement from the Department of Justice.[97] The President concluded that "solitary confinement has the potential to lead to devastating, lasting psychological consequences" and that is "has been linked to depression, alienation, withdrawal, a reduced ability to interact with others and the potential for violent behavior."[98]

While there is a growing consensus nationwide that solitary confinement can be detrimental, many authorities recognize that room confinement of juveniles can be justifiably used as a temporary response to behavior that threatens immediate harm to the youth or others.[99] Several organizations have prepared best practice standards for the use of room confinement on juveniles. One of the more widely adopted sets of standards are those created as part of the Juvenile Detention Alternatives Initiative, a project of the Annie E. Casey Foundation.[100] These standards prohibit the use of room confinement for discipline, punishment, administrative convenience, retaliation, and staffing shortages and put strict guidelines on the use of room confinement when it is utilized.[101]

A number of states, including Connecticut, Maine, Nevada, Oklahoma, and West Virginia, have already responded to the growing research on the impacts of solitary confinement and passed

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[94] Stop Solitary for Kids, Mission, http://www.stopsolitaryforkids.org/mission/.
[95] *Id.*
[96] *See, e.g.*, Office of Juvenile Justice and Delinquency Prevention, OJJDP Supports Eliminating Solitary Confinement for Youth, April 19, 2016, *available at* https://www.justice.gov/opa/blog/ojjdp-supports-eliminating-solitary-confinement-youth; American Civil Liberties Union and Human Rights Watch, Growing Up Locked Down – Youth in Solitary Confinement in Jails and Prisons Across the United States, October 2012, *available at* https://www.aclu.org/files/assets/us1012webwcover.pdf.
[97] Barack Obama, *Barack Obama: Why We Must Rethink Solitary Confinement,* WASHINGTON POST, January 25, 2016.
[98] *Id.*
[99] Annie E. Casey Foundation, Juvenile Detention Alternatives Initiative, Juvenile Detention Facility Assessment Standards Instrument, 2014 Update, *available at* http://www.aecf.org/m/resourcedoc/aecf-juveniledetentionfacilityassessment-2014.pdf.
[100] *Id.*
[101] *Id.*

legislation restricting its use on juveniles in various ways.[102] Massachusetts enacted similar restrictions through a change in policy that requires authorization within 15 minutes of room confinement occurring and requires further authorization for longer periods of confinement.[103] And, earlier this year, President Obama utilized his executive authority to ban the use of solitary confinement on juveniles throughout the Federal system.[104]

DYRS and the Department of Corrections have both made progress in recent years reducing the use of solitary confinement or room confinement on juveniles and additional efforts have been underway to move both agencies toward best practices in the use of isolation. Under current policy at DYRS, which was last updated in 1986, room confinement may be utilized for up to 24 hours prior to a hearing and up to 72 hours total as punishment for major rule violations.[105] Juveniles may also be held in room confinement to protect the youth, as a result of a medical hold, or due to the severe behavioral and mental health needs of the youth. DYRS has notified the Committee that it recognizes "the vast number of changes that have occurred in DYRS facilities and accepted practices in juvenile detention facilities since 1986" and is therefore revisiting its current room confinement policies.[106]

Current policy at the Department of Corrections, last updated in 2013, authorizes the use of disciplinary detention or administrative segregation on juveniles, after a hearing, for up to five days.[107] This period may be extended after a second hearing if there is evidence to support doing so.[108] Despite this lengthy period of time authorized by rule, Director Faust of the Department of Corrections testified on March 2, 2016 that he was committed to "moving forward with a number of changes within the juvenile unit... to essentially eliminate restrictive housing for juveniles."[109]

The Committee Print builds on this positive progress by both District agencies by codifying standards for room confinement of juveniles that have been shown to be achievable in other jurisdictions and that largely reflect those created as part of the Juvenile Detention Alternatives Initiative. Disciplinary room confinement would be prohibited, but room confinement would be authorized as a response to behavior that threatens imminent harm to the juvenile or others or imminent danger to the safe or secure operation of the facility. Room confinement is required to

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[102] CONN. GEN. STAT. ANN. § 17a-16(d)(1); ME. REV. STAT. 34-A § 3032(5); NEV. REV. STAT. § 62B.215; OKLA. ADMIN CODE § 377:3-13-144; W.V. CODE § 49-4-721.

[103] Commonwealth of Massachusetts, Department of Youth Services, Involuntary Room Confinement, Official Policy Number 03.03.01(a), effective March 15, 2013.

[104] Presidential Memorandum – Limiting the Use of Restrictive Housing by the Federal Government, March 1, 2016, *available at* https://www.whitehouse.gov/the-press-office/2016/03/01/presidential-memorandum-limiting-use-restrictive-housing-federal.

[105] Department of Youth Rehabilitation Services, Council of the District of Columbia Committee on the Judiciary 2016 Performance Oversight Hearing Pre-Hearing Questions and Answers, *available at* http://dccouncil.us/files/user_uploads/budget_responses/AgencyOperations_789101112.pdf.

[106] *Id.*

[107] District of Columbia Department of Corrections, Operations Manual, Juvenile Disciplinary and Administrative Housing Procedures, 5300.2, June 28, 2014 *available at* http://doc.dc.gov/sites/default/files/dc/sites/doc/publication/attachments/PM%205300.2%20Juvenile%20Disciplinary%20and%20Administrative%20Housing%20Hearing%20Procedures.pdf.

[108] *Id.*

[109] Director Thomas Faust, Testimony at the Performance Oversight Hearing of the Department of Corrections, March 2, 2016.

be used only if there is no other reasonable means to address the threat, only for the time period necessary to do so, and in no case for longer than six hours. Youth will receive a mental health screening after one hour in room confinement, and mental health services will be provided if necessary. Each instance of room confinement will be documented and aggregated statistics will be reported to the Mayor and the Council. These reforms will ensure that the District continues to make progress in restricting the use of room confinement and developing healthier alternative forms of behavioral management.

d. *Preparing a Parent Manual for Securely Detained Youth*

DYRS has made substantial progress toward better engaging parents in the rehabilitation of youth committed to the agency. The agency supports an Anchored in Strength Parent/Guardian Support Group, which provides workshops and retreats for parents.[110] In addition, the agency has worked to engage families through activities and events and provides office space for ParentWatch, Inc. to provide support and advice to parents.[111] DYRS also engages parents and family members through a Team Decision Making process to determine the best placement and services for each child.[112]

Thousands of parents navigating the juvenile justice system have also benefited from the guide to the District's Juvenile Justice System prepared by the Council on Court Excellence.[113] This resource helps families navigate the complexities of the juvenile justice system, from arrest through rehabilitation and provides a brief description of how children can be diverted along the way, or, in the alternative, face transfer to the adult criminal justice system.[114]

Despite these resources, a child's involvement in the juvenile justice system can be one of the most challenging times for a family, resulting in a great degree of anxiety and tension. This anxiety is often at its peak when a child is held in a secure facility. Families have numerous questions on visitation policies, the appropriate point of contact at the agency, the transition of youth between placements, the availability of support for the family, and the availability of support for the juvenile when they return from secure detention. These uncertainties can be exacerbated if a family does not have regular access to the Internet or has unstable housing. The Committee Print addresses this need by requiring DYRS to prepare a parent manual for families of juveniles residing in secure facilities that answers the most common questions raised by families.

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[110] Department of Youth Rehabilitation Services, Council of the District of Columbia Committee on the Judiciary 2016 Performance Oversight Hearing Pre-Hearing Questions and Answers, *available at* http://dccouncil.us/files/user_uploads/budget_responses/ServicesforCommittedYouth_8910.pdf.
[111] *Id.*
[112] Department of Youth Rehabilitation Services, Team Decision Making Meetings, http://dyrs.dc.gov/page/team-decision-making-meetings.
[113] Council for Court Excellence, Guide to the D.C. Juvenile Justice System, June 2009, *available at* http://www.courtexcellence.org/uploads/files/DCJuvenileJusticeGuide_English%20Final.pdf.
[114] *Id.*

H. *Expanding Oversight of Services Provided to Juveniles*

a. *Evaluating the Effectiveness of Diversion Programs*

Chairman Mendelson introduced Bill 21-0381, the Expanding Access to Juvenile Records Act of 2015, on September 21, 2015, at the request of Mayor Muriel Bowser. The legislation as introduced authorized the agencies participating in the Alternatives to Court Experience Diversion program to access juvenile case records, juvenile social records, and police and other law enforcement records in order to better deliver services to, and monitor the recidivism of, youth that have been diverted. The Committee Print incorporated the provisions of this legislation, further extended access to juvenile records to the Office of the Attorney General, and clarified that the information may be utilized to monitor the efficacy of diversion programs.

The Committee recognizes that any dispersal of juvenile records raises concerns about the privacy of those records. The success of juvenile rehabilitation can often depend on the youth's ability to escape the stigma of their past mistakes after their rehabilitation. Therefore, the Committee reiterates that records are to be accessed and utilized only for the purposes permitted, and that the unlawful use or disclosure of such records constitutes a misdemeanor.[115] The Committee made an additional clarifying change to the unlawful disclosure provision to ensure that it also covered any records sealed on the grounds of actual innocence.

b. *Evaluating the Effectiveness of the Department of Youth Rehabilitation Services*

In Fiscal Year 2016, DYRS maintained a budget of $105,676,000.[116] These funds support the operation of two 24-hour secure facilities, as well as a wide range of services and supports for the detained and committed populations. In 2015, the number of youth committed to DYRS's care totaled 528, and as of January 2016, DYRS had 78 youth detained and 281 youth committed.[117] There are few potential investments more critical than those we make in at-risk youth. Nonetheless, adequate oversight requires an evaluation of whether the investments being made actually make a long-term impact on the success of the youth receiving services. To this end, the Committee requested that DYRS provide data to the Committee regarding the criminal justice outcomes of youth who were previously committed to the agency. DYRS provided the following response:

> In order to systematically measure positive outcomes after commitment, DYRS would need access to records through other agencies. This could be accomplished by making regular data requests to the agencies asking for data about cohorts of specific post-committed youth for an allotted period of time. DYRS is sensitive to the privacy of post-committed youth and is careful to [*sic*] create barriers to employment, education, or other services if an agency, employer, or other entity were to become aware of a young person's court involvement. Alternatively, DYRS could follow up with young people directly about their achievements. This would require dedicated staff or consultant, a process to locate contact information for

[115] D.C. Official Code § 16-2336.
[116] Fiscal Year 2016 Budget Request Act of 2015, effective Sept. 29, 2015 (D.C. Law 21-0027; 62 DCR 13177).
[117] Department of Youth Rehabilitation Services, Population Statistics for DYRS-Run Facilities, *available at* http://dyrs.dc.gov/page/youth-snapshot.

youth whose commitment has expired, and carefully articulated policies that protect the identity of young people.[118]

In order to provide the authority to the agency to acquire these records and to report on the success of the District's investments in juvenile rehabilitation programs, the Committee incorporated a provision mandating that DYRS request available records from other agencies about the outcomes experienced by currently and previously committed youth in order to better evaluate their rehabilitation programs. The Committee also clarified that any records collected should be subject to the same confidentiality standards as other juvenile records maintained by DYRS.

I. *Additional Provisions*

a. *Expanding Access to Service by Publication*

Most court proceedings require that the affected parties be notified through service of process. Under current law, publication can be substituted for personal service of process in particular cases for a "defendant who can not be found and who is shown by affidavit to be a nonresident, or to have been absent from the District for at least six months, or against the unknown heirs or devisees of deceased persons".[119] This provision can result in substantial delays, however, if a plaintiff cannot locate a defendant after diligent efforts or if a defendant attempts to avoid service of process through concealment. The Committee Print would adopt the practice of numerous other jurisdictions and authorize the use of publication for service of process in these circumstances.[120] Doing so will be particularly useful in child custody cases as the determination of the child's legal custodian is vital and time sensitive and can be delayed when one parent cannot be located.

The Committee made an additional reform to the service of process statute by allowing alternative publication in child custody cases when the parent cannot afford to pay the cost of publishing an advertisement. Currently, this alternative is available in divorce cases when "satisfactory evidence is presented to the court that the plaintiff is unable to pay the cost of publishing an advertisement pursuant to D.C. Official Code § 13-340, without substantial hardship to himself or herself, or to his or her family."[121] In these circumstances, the publication may be made by posting the order for twenty-one calendar days in the Clerk's Office of the Family Division of the Superior Court.[122] The Committee Print extends the application of this provision to child custody cases as well.

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[118] Department of Youth Rehabilitation Services, Council of the District of Columbia Committee on the Judiciary 2016 Performance Oversight Hearing Pre-Hearing Questions and Answers, *available at* http://dccouncil.us/files/user_uploads/budget_responses/TrackingYouthSuccess_1234578.pdf..

[119] D.C. Official Code § 13-336(a).

[120] *See, e.g.*, WASH. REV. CODE § 4.28.100(2); WYO. RULES OF CIVIL PROC. Rule 4; VA. CODE ANN § 8.01-316; NEV. RULES OF CIVIL PROC. Rule 4.

[121] D.C. Official Code § 13-340(a).

[122] *Id.*

b. *Repealing the Fraud Prevention Fund*

As introduced by the Mayor, the Fiscal Year 2016 Budget Support Act of 2015 contained the proposed repeal of the Fraud Prevention Fund.[123] This subtitle was removed from the Budget Support Act prior to second reading in order to avoid requiring the full act to undergo a 60-day congressional-review period at that time. The repeal of this fund was requested by the Mayor, as the fund has never been created.[124] This Committee Print effectuates the repeal of the fund.

LEGISLATIVE HISTORY

April 5, 2016	Introduction of B21-0683 by Councilmembers McDuffie, Bonds, Grosso, May, Nadeau, Silverman, and Chairman Mendelson.
April 5, 2016	Referral of B21-0683 to the Committee on the Judiciary.
April 8, 2016	Notice of Intent to Act on B21-0683 is published in the *District of Columbia Register.*
April 15, 2016	Notice of Public Hearing on B21-0683 is published in the *District of Columbia Register.*
June 2, 2016	Public Hearing on B21-0683 is held by the Committee on the Judiciary.
October 5, 2016	Markup of B21-0683 by the Committee on the Judiciary.

POSITION OF THE EXECUTIVE

The Committee on the Judiciary held a public hearing on Bill 21-0683 on Thursday, June 2, 2016. Director Clinton Lacey of the Department of Youth Rehabilitation Services testified on behalf of the Executive. Director Lacey testified that the Executive unconditionally supported the provisions in the bill to prevent the predisposition detention of status offenders, to ban the commitment of youth under the age of 10, to create a parents manual to better inform youth and families about commitment and the resources available to them, to restrict the use of restraints on juveniles, to eliminate the sentence of life imprisonment without parole for juvenile offenders under the age of 18, and to create a victim mediation program administered by the Office of the Attorney General.

Director Lacey testified that the provisions of the bill as introduced requiring a root cause analysis for juvenile crime and the analysis of the effectiveness of rehabilitation programs for current or former DYRS youth under 24 years of age would be better carried out by the Criminal Justice Coordinating Council, given that agency's experience with collecting and analyzing data across multiple agencies. Director Lacey also noted that the room confinement provisions in the

[123] Section 1002 of Title X of the Fiscal Year 2016 Budget Support Act of 2015, as introduced on April 2, 2015 (Bill 21-0158).
[124] Office of the Chief Financial Officer, Fiscal Impact Statement, April 2, 2015, on draft of the Fiscal Year 2016 Budget Support Act of 2015 (Bill 21-0158).

bill as introduced required further analysis. He reported that room confinement was used in 88 cases over a four-month period in 2015. He noted that in 79 of those cases, room confinement was used for less than 24 hours, while the remaining 9 cases resulted in room confinement in excess of 24 hours. He noted that there was room for progress on room confinement and that the agency had already been examining the issue to better align the District with national best practices.

Director Lacey noted that the Executive opposed, as initially drafted, the removal of D.C. Public Schools from the juvenile records sharing provisions, and the transfer of Title 16 youth to the Youth Services Center or New Beginnings. The Director noted that there had been periodic overcrowding of the Youth Services Center. He raised the concern that if the legislation were to exacerbate overcrowding at the Youth Services Center, it might jeopardize the District's ability to comply with the Work Plan arising from the *Jerry M.* litigation. Director Lacey noted that Title 16 youth may have higher needs than other youth and require additional support services. Director Lacey concluded by stating the Executive's willingness to collaborate on systemic reform.

ADVISORY NEIGHBORHOOD COMMISSION COMMENTS

The Committee did not receive testimony or comments from Advisory Neighborhood Commissions.

WITNESS LIST AND HEARING RECORD

The Committee on the Judiciary held a hearing on Bill 21-0683, the "Comprehensive Youth Justice Amendment Act of 2016", on Thursday, June 2, 2016. A video recording of the hearing can be viewed at www.oct.dc.gov. The following witnesses testified before the Committee:

Public Witnesses

Santos Guevara – Youth

Ms. Guevara testified about her fight to remain in this country, and the significance of changing the special immigrant juvenile status law from 18 to 21. Ms. Guevara came to the United States three years ago, and she told her story of the process to obtain special immigrant juvenile status.

Kevin Ayala Franco – Youth

Mr. Ayala testified that a new special immigrant juvenile status law will give many students an opportunity to progress and achieve a higher education. Additionally, as a future first-generation college student, he believes a change to special immigrant juvenile status would allow students to obtain a better future for their families.

Oscar Paz – Youth

Mr. Paz expressed his support of expanding access to Special Immigrant Juvenile status. As a Cardozo High School student, Mr. Paz said the lives of many students will be changed with this law, as it will serve as a motivation to improve themselves.

Margot Dankor – Pro Bono Coordinating Attorney, Kids in Need of Defense

Ms. Dankor testified that because state court jurisdiction to qualify for SIJS ends at the age of 18, most children are unable to obtain the necessary court orders to apply, and thus many who qualify for this form of relief are not able to access it. Ms. Dankor testified that she hopes D.C. will approve the provision expanding SIJS to age 21 in reflection of the federal statute, so that children are still able to access the benefits that they need.

Alvaro Benavidez – Youth

Mr. Benavidez testified about his path to the United States from El Salvador and his desire to remain in this country for his safety. He considers D.C. to be his home, and he spoke to the importance of expanding access to Special Immigrant Juvenile Status.

Guerdrudis Perez – Youth

Ms. Perez testified that she left Guatemala to come to the United States for a better life. In her country life was not easy, so she saved money to come to the United States. She wants to "make something of [her]self" but knows that in D.C., the immigrant juvenile status law does not extend past 18 years old. Her desire is to be an elementary school teacher and to provide a good future for her children.

Lita Trejo – Case Manager, The Next Step Public Charter School

Ms. Trejo, on behalf of her organization, expressed that many of her students have experienced barriers that impact their ability to stay in school and succeed, such as legal status. Many of her students have been candidates for Special Immigrant Juvenile Status, but often when they are referred to the program, it is too close to the age limit. She expressed that the opportunity to become permanent residents allows these students to become productive citizens. Ms. Trejo also gave suggestions to the Council to increase and support the youth and their families: 1) increase the eligibility age for the Juvenile Immigrant Visa to 21, 2) target resources for expansion of quality legal services, and 3) invest in youth activities.

Chris Obermeyer – Public Witness

Mr. Obermeyer testified from his experience as a DCPS teacher about the immigrant experience in the District of Columbia. Often immigrant students, and particularly those over the age of 18, live in fear of imminent deportation, and many students are forced to choose between only a few options. They can continue going to school in D.C. with the hopes of attending a local university while working full time; they can drop out of school to work more, and that way if

forced to go to their country of origin can return more stable; and if they have familial support elsewhere, can move to another state that has provisions allowing young people under the age of 21 to apply for Special Immigrant Juvenile Status.

William H. Lamar, IV – Pastor, Metropolitan African Methodist Episcopal Church

Rev. Lamar testified in support of the legislation as a step towards reforming the juvenile and criminal justice policies of the past and present. He highlighted that the passage of this bill will seek to undo a number of the District's ineffective, overly punitive policies, and help the District move in a direction that better balances accountability and retribution.

Roger Gench – Senior Pastor, New York Avenue Presbyterian Church

Rev. Gench testified in support of the bill and expressed the need for a different philosophy for understanding the prison system. He stated his belief that this bill is a move in the right direction to make the justice system just for everyone.

Prof. Kristin Henning – Director, Georgetown University Law Center Juvenile Justice Clinic

Professor Henning testified in support of the legislation and, particularly, in support of the provisions that would restrict the use of solitary confinement and shackling, reduce the use of secure detention, and prohibit youth from being detained in an adult facility. She also requested that the legislation incorporate a provision allowing the sealing of juvenile arrest records when juveniles are not petitioned, making the sealing of records automatic, and allowing the sealing of the entire juvenile record, not just the most recent case.

Professor Henning's testimony noted the growing consensus against solitary confinement for juveniles and the psychological impact it can have. She also noted that youth incarceration increases recidivism and decreases the likelihood that youth will complete high school or be gainfully employed. Professor Henning praised the bill's provisions establishing a victim-offender mediation program and expanding data sharing and oversight.

Professor Henning testified to the Central Treatment Facility's inadequacy for serving children and applauded the bill's shift of children from that facility to age-appropriate settings. She also advocated for eliminating the ability of the U.S. Attorney to charge children as adults or establish a reverse waiver provision to keep children from being prosecuted as adults.

Jason Zeidenberg – Director of Research and Policy, Justice Policy Institute

Jason Zeidenberg testified on behalf of the Justice Policy Institute in support of the bill. He noted that the bill reflected the right approach to public safety in the District, and it is the right approach to youth development and building neighborhoods. He noted that legislation can serve as a catalyst for even broader systemic change, and that all juvenile justice agencies and non-profit organizations would have to work together to achieve success. Mr. Zeidenberg concluded by recognizing that the District has an opportunity to leverage the Department of Justice's recent focus on the issues contained in the legislation.

R. Daniel Okonkwo – Executive Director, D.C. Lawyers for Youth

Mr. Okonkwo testified on behalf of D.C. Lawyers for Youth in support of the bill. He described in detail the organization's support for reforms to end the housing of juveniles as adults, to establish a reverse waiver procedure, to end mandatory minimums for youth, to end the use of life without parole sentences for youth, to eliminate the detention of status offenders, to reduce the detention of low-risk youth, to expand some access to juvenile records (within narrowly tailored limits), to allow for the sealing of juvenile arrest records, to make the sealing of juvenile records automatic, to allow sealing of the entire juvenile record, to restrict the use of solitary confinement, to regulate the use of shackles, to establish a voluntary victim-offender mediation program, to analyze the root causes of delinquency, to allow for additional youth to have Special Immigrant Juvenile findings, to expand the use of publication notice, and to reduce the community service requirement. Mr. Okonkwo concluded by noting that the bill would not only align the District with nationwide trends and research on youth development, but it would make the District a national leader on youth justice. Mr. Okonwko also produced a letter signed by 56 community organizations in the District of Columbia in favor of the legislation moving forward.

Irvin Nathan – Board President, and Emily Tatro, Policy Analyst, Council for Court Excellence

Irvin Nathan, the former Attorney General for the District, testified on behalf of the Council for Court Excellence. Mr. Nathan stated his support for the goals of the bill, provided that no unreasonable burdens were placed on the implementing agencies. Mr. Nathan testified specifically in support of the bill's provisions to increase the collection of data about the root causes of youth crime and the sharing of data between agencies to evaluate the effectiveness of diversion programs. Mr. Nathan recommended that another agency, rather than DYRS, be in charge of the analysis of root causes and that the reports be less than annual in order to avoid undue burden. Mr. Nathan also supported the publication of a parent manual by DYRS and noted that it would dovetail with CCE's own guide to the juvenile justice system.

Marcy Mistrett – Executive Director, Campaign for Youth Justice

Ms. Mistrett testified on behalf of the Campaign for Youth Justice in support of the bill. She encouraged the District to roll back policies that treat youth as adults in the criminal justice system. She focused her testimony on the need to remove youth from the Correctional Treatment Facility. She noted the dangers to youth from placing them in adult facilities and the specific deficiencies of the Correctional Treatment Facility, as demonstrated by recent analyses. She summarized local and national research on the impact of keeping youth in the adult criminal justice system and recommended that the Council consider a "reverse waiver" provision.

Charlie Curtis – Poet Ambassador, Free Minds Book Club and Writing Workshop

Mr. Curtis shared his experience as a young person charged as an adult. He noted that, during his time at the D.C. Jail, he was offered inadequate education and programming, and there was not a focus on rehabilitation. Mr. Curtis noted that New Beginnings offered substantially better programming for youth and an appropriate focus on youth development.

Arthur L. Burnett, Sr. – Retired Judge, Superior Court of the District of Columbia

Judge Burnett testified regarding the opportunity the District has in the bill to establish a model law. He stated his specific support for the provisions related to prohibiting the detention of status offenders and the sharing of juvenile information. Judge Burnett recommended establishing a system of juvenile citations and incorporating diversion to community-based organization juvenile diversion programs into the bill. He concluded by noting the importance of dealing with dysfunctional homes without contributing to mass incarceration.

Edgar S. Cahn – Founder, Youth Court

Dr. Cahn testified regarding his experience with the Youth Court program. He urged the re-funding of Youth Court, as it was a successful program for reducing recidivism and keeping young people out of the system. He noted that Youth Courts have operated successfully in jurisdictions around the country.

Nikola Nable-Juris – Policy Counsel, Campaign for the Fair Sentencing of Youth

Ms. Nable-Juris testified on behalf of the Campaign for the Fair Sentencing of Youth in support of the bill as a an important step to hold youth accountable for their actions in an age-appropriate manner. Ms. Nable-Juris described the recent Supreme Court precedent on juvenile sentencing and applauded the bill's author for bringing the District in line with this developing case law. She recommended that the bill be amended to incorporate a sentence review provision for juveniles serving long terms. She also noted that youth who served life without parole sentences were predominately African American and that many were first-time offenders.

Ms. Nable-Juris described the impact that adolescent brain development has on adolescent decision-making and related that the allowable sentencing practices for juveniles in the United States were outside international norms. She concluded by noting that 17 states had already banned juvenile life without parole sentences and that the current sentencing system resulted in enormous costs to society.

Andre Williams – Public Witness

Mr. Williams testified about his experience as a juvenile charged as an adult and given a sentence of life-without-parole. He noted that he was only released due to the Supreme Court decision in *Graham v. Florida*. He described the impact that a life sentence can have on young people, as it can limit their interest in or access to rehabilitation, but that he had been able to make progress since coming home, including holding a full-time job. He shared his story to demonstrate that children have the ability to change.

Kelli Taylor – Co-Founder & Book Club Facilitator, Free Minds Book Club

Ms. Taylor testified from her experience as Co-Founder of the Free Minds Book Club. She described the damage caused to children in the adult system. She spoke about the importance of

balancing punishment and rehabilitation and to have age appropriate sentences. She shared the stories of two juveniles charged as adults and how their experience in Free Minds demonstrated their ability to change. She concluded her testimony by suggesting that judges should be able to consider a defendant's youth during sentencing before applying mandatory minimums to take into account the new evidence about adolescent brain development.

Halim Flowers – Public Witness

Mr. Flowers' testimony was provided by Alison Horn, as Mr. Flowers is currently serving a life sentence for an offense committed while he was a juvenile. Mr. Flowers noted that he was charged as an adult as an unarmed aider and abettor and was not provided a hearing to determine whether the charging decision was appropriate. Mr. Flowers supported the legislation but requested that it be applied retroactively to reduce existing sentences.

Lisa Pilnick – Deputy Executive Director, Coalition for Juvenile Justice

Ms. Pilnick testified on behalf of the Coalition for Juvenile Justice regarding the appropriate treatment of status offenders. She noted that locking up status offenders leads to worse outcomes for individual children and for their communities, and that status offenders should be treated differently from juvenile delinquents. She noted that the District's secure confinement of status offenders was the 18th highest in the country, despite its small population.

Maheen Kaleem – Staff Attorney, Rights4Girls

Ms. Kaleem testified in support of the bill on behalf of Rights4Girls. She focused her testimony on the need to eliminate the detention of status offenders and the extension of anti-shackling provisions to all youth. She described the growing national consensus that the secure detention of status offenders was harmful and that there was a federal presumption under the JJDPA that states should avoid the detention of status offenders. She noted how the secure detention of status offenders can direct young girls into the juvenile justice system as a result of their sexual victimization. Ms. Kaleem concluded by supporting expanded regulations on the use of restraints on juveniles to include all youth.

Sharra Greer – Policy Director, Children's Law Center

Ms. Greer testified on behalf of the Children's Law Center in support of the goals of the legislation but requested that a specific change be made to ensure the legislation did not unintentionally impact abused and neglected youth. Ms. Greer focused her testimony on describing the importance of the bill's provisions that expand access to notice by publication for child custody cases in circumstances where the whereabouts of the defendant is unknown or the defendant is purposefully avoiding service. Ms. Greer requested that alternative forms of publication also be available in child custody cases, as they are currently in divorce cases, when the plaintiff cannot afford the cost of traditional publication.

Yvette Butler – Policy Counsel, Amara Legal Center

Ms. Butler testified on behalf of the Amara Legal Center in support of the bill. She noted that many survivors of sex trafficking are also runaways or truants and may be identified as persons in need of supervision. Ms. Butler supported the provisions of the bill prohibiting the detention of status offenders, as it could make existing problems worse for these children.

Monica Hopkins-Maxwell – Executive Director, American Civil Liberties Union of the Nation's Capital

Ms. Hopkins-Maxwell testified on behalf of the ACLU in support of the bill. She focused her comments on the bill's provisions on solitary confinement. She noted that better alternatives to solitary confinement exist and recommended that the bill include reporting of the use of solitary confinement. She also expressed the importance of being cautious about the proliferation of juvenile records to ensure that there are no collateral consequences.

Eugene Puryear – Executive Director, Stop Police Terror Project

Mr. Puryear testified that the tenets of the bill were unassailable, so he focused on the underlying need for outreach to, and communication with youth. He described the frustration and hopelessness of youth. He saw the bill as a demonstration of the value that "two wrongs don't make a right", in that the crime does not justify immoral treatment. Mr. Puryear saw the bill as a representation that the Council has listened to the community, and the Black Lives Matter movement was getting a hearing.

Courtney Stewart – Chairperson, The Reentry Network for Returning Citizens

Ms. Stewart provided testimony in support of the bill. She noted her own experience being committed at the age of nine and the importance of offering intervention, prevention, and alternative programs. Ms. Stewart noted that crime prevention costs less than incarceration and that placing young adults in adult facilities increases crime. She concluded by noting that the prevalence and severity of juvenile crime are often overestimated.

Maggie Riden – Executive Director, D.C. Alliance for Youth Advocates

Ms. Riden testified in strong support of the bill. She highlighted the positive impact the bill will have on unaccompanied, runaway, and homeless youth. She noted that the bill will help re-orient the District's response to young people in crisis from criminal justice to community-based services and prevention.

Crystal Carpenter – Public Witness

Ms. Carpenter testified in support of the legislation as a way to halt the sentencing of individuals to die in prison for crimes committed under the age of 18. She recommended that the bill's sentencing provisions be applied retroactively and include a provision to allow the review of lengthy sentences.

Evelyn Johnson – Public Witness

Ms. Johnson provided testimony to the Committee in support of the bill on behalf of her son, who is serving a lengthy sentence and has been incarcerated since the age of 16.

Emily MacLeod – Legal Fellow, D.C. Prisoners' Project, Washington Lawyers' Committee for Civil Rights under the Law

Ms. MacLeod testified to express the support of the Washington Lawyers' Committee for Civil Rights under the Law for the bill. She highlighted several provisions that were of importance to her organization, beginning with keeping youth out of adult facilities. She highlighted her organization' report on the insufficient conditions of confinement for juveniles at the Correctional Treatment Facility. She noted that the CTF used solitary confinement excessively and supported the bill's provisions restricting the use of room confinement. She also testified in favor of the bill's provisions on reducing incarceration.

Sarah Comeau – Co-Founder and Director of Programs, School Justice Project

Ms. Comeau testified that the transfer of youth to juvenile facilities would help ensure that they have access to special education services. She relayed her experience with the impact of detention on the development of young people, and particularly on people with disabilities. Ms. Comeau noted that lack of education continuity and quality profoundly impacted individuals, leading them to be more likely to drop out, ultimately resulting in unemployment and recidivism. She concluded by noting that 80% of DYRS youth have IEPs, and 90% have an Axis I or Axis II diagnosis.

Jenifer Wicks – President, D.C. Association of Criminal Defense Lawyers

Ms. Wicks testified as a sixth generation Washingtonian who went to private school. She noted the difference in treatment between privileged youth and other youth who have the same behaviors. She focused on removing children from adult provisions, the elimination of mandatory minimums for juveniles, and the removal of the sentence of juvenile life without parole. She noted that juveniles charged as adults typically have special needs and need individualized services. Ms. Wicks described the D.C. Jail as "filthy and decrepit", that the facility lacked services and quality education, and that it was designed for short-term stays. Ms. Wicks concluded by stating her organization's support for making the sentencing changes retroactive.

Andre Phillips – Chairperson, Fraternal Order of Police, Department of Youth Rehabilitation Services Labor Committee

Mr. Phillips testified as the head of the union of Youth Development Representatives in opposition to the bill. He testified that it was his perspective that juveniles charged as adults do not have "a foreseeable future that is not behind bars", and that Department of Corrections officers were authorized to use physical force and equipment to subdue children, while DYRS focuses on de-escalation. Mr. Phillips described the consequences of over-crowding in facilities and the need

for additional mental health staff. He concluded by noting the union's opposition to restrictions on the use of room confinement and his perspective that room confinement was not harmful to children.

Nicholas Marritz – Staff Attorney, Legal Aid Justice Center

Mr. Marritz expressed his organization's support for the bill and his desire to fix the mismatch between federal law and D.C. law on Special Immigrant Juvenile Status. He urged the Council to amend the District's custody procedures so that refugee children may get the maximum protection to which they are entitled under federal law.

Smita Dazzo – Staff Attorney, Catholic Charities of the Archdiocese of Washington

Ms. Dazzo testified as an attorney at Catholic Charities regarding the difficulties that a minor child has in being able to obtain a custody order before the age of 18. She noted that a number of circumstances can result in delays before an unaccompanied minor sees an immigration attorney and as a result, many minors miss the opportunity to take advantage of special immigrant juvenile status. She described how the limited number of organizations that provide immigration services in the District and the high level of trauma experienced by these young people can exacerbate the problem. As a result, Ms. Dazzo testified in favor of increasing the maximum age for special immigrant juvenile status to 21.

Christina Wilkes – Staff Attorney, Grossman Law, LLC

Ms. Wilkes testified in support of the bill from her experience representing more than 500 unaccompanied immigrant minors in the region over the last 12 years. She noted the importance of special immigrant juvenile status to ensuring the success of these young people, but that District law is more restrictive then federal law, leaving many children without a viable pathway to legal status. She noted that Maryland passed legislation expanding access to special immigrant juvenile status with positive results.

Katrine Noncent Shaw – Staff Attorney, Ayuda

Ms. Noncent Shaw, an immigration attorney at Ayuda, testified regarding her experience assisting immigrant minors. She described the dire need for support and community among unaccompanied immigrant children and the importance of special immigrant juvenile status for this population. Ms. Shaw concluded by describing the benefits of expanding access to special immigrant juvenile status for young people, allowing them to plan for their future and obtain an education.

Sarah Bryer – Executive Director, National Juvenile Justice Network

Ms. Bryer testified in support of the bill on behalf of the National Juvenile Justice Network, which has 51 membership organizations across 41 states and the District of Columbia. Ms. Bryer noted the developing knowledge of adolescent brain development and how it impacts a youth's judgement, decision-making, and behavior. She noted that the Supreme Court and other

legislatures have begun to recognize the growth that occurs during teen years. Ms. Bryer described the importance of removing juveniles from adult facilities and noted that 32 other states had already enacted similar policies.

Jennifer Lutz – Staff Attorney, Children's Center for Law and Policy

Ms. Lutz testified on behalf of the Center for Children's Law and Policy on the importance of the bill's restrictions on room confinement and how such restrictions fit into the national Stop Solitary for Kids campaign. Ms. Lutz noted that successful jurisdictions had been able to limit room confinement to two to three hours, and that the JDAI standards set a national model for regulating room confinement. Ms. Lutz recommended that the bill further restrict the use of room confinement to only be permissible in fewer circumstances.

Mai Fernandez – Executive Director, National Center for Victims of Crime

Ms. Fernandez testified in support of the bill, but with the understanding that the Council will consider the needs of victims when making reforms. She testified to the importance of improved victim participation in the system, better victim notification of proceedings, a reduction in court continuances, meaningful opportunities to provide victim impact statements, victim assistance, and better access to victim compensation and restitution. Ms. Fernandez described the JDAI initiative and the common ground between victim advocates and juvenile justice advocates on the need for effective rehabilitation and mental health services. She identified improved education, restorative justice, and community building as several avenues for supporting juvenile rehabilitation and victim healing.

Caitlyn Ellsworth – Deputy Director, Access Youth

Ms. Ellsworth testified on behalf of Access Youth in support of the bill. She noted the importance of using education instead of incarceration. Ms. Ellsworth noted that she had seen youth as young as eight placed in secure detention. She was particularly supportive of the enhanced information sharing provisions in the bill but recommended that the victim-offender mediation provision include community partners as independent mediators.

Josh Rovner – State Advocacy Director, The Sentencing Project

Mr. Rovner testified on behalf of The Sentencing Project and endorsed the bill. He particularly noted the organization's support for ending mandatory minimums and juvenile life without parole, removing teenagers from the D.C. Jail, and ending secure detention for children in need of supervision. He described the Supreme Court precedent against harsh sentences for juveniles and the danger that juveniles could face in adult facilities. Mr. Rovner concluded by supporting the diversion of status offenders, stating that the justice system is not the appropriate response for these offenses.

Gaillard T. Hunt – Public Witness

Mr. Hunt testified about his experience working with recent immigrants and his support of the Council raising the age limit for Superior Court judges to issue the findings needed for Special Immigrant Juvenile Status. Mr. Hunt proposed alternative language to enact this expansion.

Adriane D. Cubbage – Public Witness

Ms. Cubbage submitted a letter for the record to support the bill to allow people who were juveniles who were charged as adults and sentenced to long terms of imprisonment to have an opportunity to come home.

Eddie B. Ellis Jr. – Founder/CEO, One by 1, Inc.

Mr. Ellis submitted written testimony in support of the bill. He relayed his experience being charged as an adult under Title 16 and the mental and emotional impact of placing children in the adult system. He stated that he was given a second chance and requested that other children be given a chance as well.

Madeline E. Nelson – Public Witness

Ms. Nelson submitted written testimony about the impact that tough-on-crime sentencing for juveniles in the 1990s had on her family and on the city. She requested that the legislation incorporate a second chance for inmates incarcerated for many years.

Shannon J. Morgan – Public Witness

Ms. Morgan submitted written testimony in support of the bill on behalf of her incarcerated family member and to recommend that the legislation give incarcerated individuals a second chance.

Tim Curry – Director of Training and Technical Assistance, National Juvenile Defender Center

Mr. Curry submitted written testimony for the record on behalf of the National Juvenile Defender Center. He noted that the legislation was in line with national best practices and respect for due process. He described how reducing the use of secure detention can improve public safety, particularly in the case of status offenders. Mr. Curry also supported the bill's presumption in favor of pretrial detention and other jurisdictions that moved in a similar direction. Mr. Curry also addressed the importance of restricting the use of room confinement, limiting the use of shackles on youth, and prohibiting the placement of youth in adult facilities. He described how age-appropriate sentencing of juveniles is supported by developmental research and national best practices.

Brittney Williams – Public Witness

Brittney Williams submitted written testimony in support of the legislation, as she believed that longer sentences only hinder juveniles. She described how placing juveniles in adult facilities would create long-term issues and not prepare them with the necessary skills for returning to the community.

Nicole Calhoun – Public Witness

Ms. Calhoun wrote to request that the legislation be made retroactive, as juveniles do not fully comprehend the concept of future goals. She suggested that the legislation incorporate provisions to speed up the parole process.

Marion J. Crawford – Public Witness

Mr. Crawford submitted written testimony about his experience as a juvenile charged as an adult for a serious crime. He explained that it took him until his mid-twenties to fully understand his crime, and that he had since been able to give up his criminal thinking.

Sabino Mario Johnson – Public Witness

Mr. Johnson wrote on behalf of his family member in support of the bill and to request that those serving long sentences be given a second chance.

Tony Johnson – Public Witness

Mr. Johnson submitted testimony in support of the bill on behalf of his nephew, who was sentenced as an adult for a crime committed as a juvenile. He described the impact that this sentence had on his family and how he had been rehabilitated.

Victoria Wright – Public Witness

Ms. Wright submitted testimony on behalf of a friend in support of the bill and in support of providing everyone a second chance.

Sasha Vance – Public Witness

Ms. Vance wrote in support of the bill and the need to give people a fair chance at life outside of prison.

Kareem McCraney – Public Witness

Mr. McCraney wrote of his experience as a Title 16 juvenile sentenced without consideration of the mitigating factors of his youth. He relayed that people are redeemable and described the wide array of programs that he has been able to complete while incarcerated. Mr. McCraney stated his desire for the bill to be retroactive and provided the legal history of Title 16.

Sonja James – Public Witness

Ms. James submitted written testimony on behalf of Grant David Moctar, requesting that the bill include consideration of past cases. She further stated her support for Congressional action to amend Title 16.

Maxime Kwarteng – Public Witness

Ms. Kwarteng wrote in support of the legislation, as it ameliorates serious issues within the juvenile justice system. She explained the importance of allowing courts to take the peculiar circumstances of juveniles into account in sentencing and described the value of preparing a parent manual to better inform the families of juveniles.

Mildred Boyce – Public Witness

Mildred Boyce wrote in support of making the legislation retroactive on behalf of her family member, who was incarcerated as a juvenile after being charged as an adult. She noted the classes her family member had taken and that he could be successful if given a chance.

Grant D. Moctar – Public Witness

Mr. Moctar submitted testimony in favor of juvenile justice reform in the District of Columbia that would clearly distinguish children charged as adults from other adults and requested that the legislation be retroactive.

Robert Brown – Public Witness

Mr. Brown wrote on behalf of his brother, who is currently incarcerated. He wrote about the importance of rehabilitation and the need to provide relief for juvenile offenders serving long sentences.

Vernell Shipman – Public Witness

Mr. Shipman submitted testimony in support of making the bill retroactive. He noted the training that his relative had received while incarcerated and the importance of rehabilitation.

Brian Williams – Public Witness

Mr. Williams wrote that adult sentences are unfair for juveniles, as juveniles will ultimately serve more time behind bars. He noted that long sentences could be the equivalent of life sentences, and that juveniles should be given a second chance. Mr. Williams explained the constitutional considerations that impact juvenile sentencing and requested that the legislation be made retroactive.

Julie Stewart – President, Families Against Mandatory Minimums

Ms. Stewart submitted testimony specifically with regard to Section 303 of the bill, regarding the discretionary suspension of mandatory minimum sentences by judges for crimes committed while the defendant was a juvenile. Ms. Stewart testified that, though she advocated for the repeal of all mandatory minimums, the use of "safety valve provisions" provided an effective reform measure in state legislatures, and that 40 states have reformed or repealed mandatory minimums in the last 15 years. She noted that Montana in particular, had enacted a similar provision to the one contained in the bill. Ms. Stewart stated that judges are in the best position to consider the individual facts of a case and the level of the juvenile's culpability. She noted that overly long sentences reduce public safety by eroding confidence in the justice system and by taking resources that could otherwise be spent on crime prevention.

Kaitlyn Boecker – Policy Coordinator, Drug Policy Alliance

Ms. Boecker submitted written testimony to the Committee on behalf of the Drug Policy Alliance in support of the bill. She described the importance of meeting the unique needs of juveniles in the criminal justice system through age-appropriate housing and an appropriate understanding of juvenile culpability. Ms. Boecker also laid out the goal of eliminating solitary confinement due to its impact on young people. She recommended that the Committee take additional steps to create a far-reaching dialogue on systemic issues in the juvenile justice system, including the impact of juvenile detention on families and the consequences of criminalizing behaviors, like drug use.

Shayna Scholnick – Director of the Promotor Pathway, Latin American Youth Center

Ms. Scholnick wrote in strong support of the bill on behalf of the Latin American Youth Center. She shared her experience as an expert in Positive Youth Development about the importance of emphasizing rehabilitation and restorative justice instead of harsh confinement and incarceration. She described the experience of LAYC youth who were re-traumatized and re-victimized in the juvenile justice system. Ms. Scholnick expressed that harsh penalties do more harm than good and may not increase deterrence. She wrote further that young people, in order to successfully reintegrate, needed access to resources and community-based age-appropriate care. Ms. Scholnick concluded by stating the support of LAYC for expanding access to special immigrant juvenile status, given the time it can take for youth who have experienced trauma to disclose their abuse and neglect.

Freadie Frost – Public Witness

Ms. Frost wrote a letter to the Committee on behalf of her nephew to request that the bill give current inmates a second chance through a parole process.

Ms. Thomas – Public Witness

Ms. Thomas wrote a letter to the Committee on behalf of her fiancée, Kareem McCraney, requesting that the bill be made retroactive. She described the efforts her fiancé had undertaken to rehabilitate himself and stated that it would be unjust to pass the bill without making it retroactive.

Government Witnesses

Natalie Ludaway – Chief Deputy Attorney General, Office of the Attorney General

Chief Deputy Attorney General Ludaway testified on Bill 21-0683 on behalf of the Office of the Attorney General ("OAG"). Ms. Ludaway expressed the OAG's support of the goals of the bill. She noted that the Attorney General had been working diligently in this field and had achieved a six-fold increase in the use of diversion programs like ACE.

She began her testimony by noting the growing scientific research supporting the holding of Title 16 youth in juvenile facilities until they reach the age of 18, and that placement in an adult facility is correlated with 35% higher rates of re-offense. Ms. Ludaway did note the concerns with staffing and space constraints and recommended that a study be completed to determine how best to proceed without exacerbating overcrowding. Ms. Ludaway also noted the OAG's support for the ending of mandatory minimum sentences for Title 16 youth.

She highlighted the Attorney General's support for a continued presumption in favor of detention in cases of certain alleged violent offenders. Ms. Ludaway stated the OAG's general support for ending the pre-disposition detention of status offenders but raised concerns that funding and supports be provided to serve this community adequately and immediately. Ms. Ludaway also noted the OAG's support for the recent restrictions on shackling before the Superior Court put in place by Administrative Order.

She conveyed the OAG's support for the data collection and analysis provisions of the bill but recommended that they be transferred to CJCC. The OAG also supported the concept of a victim-offender mediation program but requested additional resources to implement the pilot project.

Ms. Ludaway concluded by requesting that the Committee consider two additional provisions. First, she recommended a provision removing the requirement that juveniles be arrested in domestic violence situations that are not intimate-partner violence, if the juvenile is diverted to an appropriate program pre-arrest. Secondly, Ms. Ludaway recommended an amendment to close a loophole that currently prevents some youth from having their arrest records sealed when no petition has been filed.

Laura Hankins – Special Counsel, Public Defender Service of the District of the Columbia

Laura Hankins testified on behalf of the Public Defender Service ("PDS") in general support of Bill 21-0683. Ms. Hankins began her testimony by describing the practice of over-detention of children in the District. She noted PDS's support of the provision in the bill

strengthening the presumption against detention but noted that secure detention is not the appropriate placement if there is a risk to the juvenile themselves. Rather, Ms. Hankins suggested that shelter care is the appropriate placement to protect children from harm to themselves.

Ms. Hankins recommended that the Committee consider codifying the existing Administrative Order restricting the use of shackles on juveniles appearing before the Superior Court. Ms. Hankins also advocated in favor of enacting a complete prohibition on the secure detention of status offenders, who should rather be in shelter care. Ms. Hankins requested that the Committee also limit the time on dispositional orders for status offenders to the offender's 18th birthday to reflect the nature of the offense.

Ms. Hankins advocated for additional resources to be spent, if necessary, to treat all juveniles as juveniles and to house them in age-appropriate settings. She concluded her testimony by supporting the proposal of the Attorney General to close the juvenile arrest record sealing loophole.

IMPACT ON EXISTING LAW

Bill 21-0683 amends Title 16 of the District of Columbia Code to strengthen the presumption against pre-disposition detention of a child, to reduce the number of unnecessary arrests of children, to ban the secure detention of status offenders, to transfer Title 16 juveniles to the custody of DYRS, to end the commitment to DYRS of children under the age of 10, to terminate the commitment of status offenders on their 18th birthday, to allow the sharing of juvenile information between agencies for the purpose of providing services evaluating the efficacy of diversion programs, and to authorize the sealing of juvenile arrest records.

Bill 21-0683 amends Title 23 of the District of Columbia Code to transfer Title 16 juveniles to DYRS custody.

Bill 21-0683 amends the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010 to require the establishment of a victim-offender mediation program.

Bill 21-0683 amends the Revised Statutes of the District of Columbia to require the Metropolitan Police Department to cooperate with the CJCC in its review of the root causes of juvenile delinquency.

Bill 21-0683 amends the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001 to require the Criminal Justice Coordinating Council ("CJCC") to conduct an analysis of the root causes of juvenile delinquency.

Bill 21-0683 amends An Act To create a Department of Corrections in the District of Columbia to require the Department of Corrections to cooperate with the CJCC in its review of the root causes of juvenile delinquency.

Bill 21-0683 amends An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, to eliminate mandatory minimums for juveniles charged as adults, to ban the use of juvenile life without parole, and to allow for sentence review for individuals who have served 25 or more years in prison for crimes committed as juveniles.

Bill 21-0683 amends the Department of Youth Rehabilitation Services Establishment Act of 2016 to better inform the families of committed juveniles about their commitment and the resources available to them, to require DYRS to cooperate with the CJCC in its review of the root causes of juvenile delinquency, and to require the agency to collect information regarding the effectiveness of its rehabilitation programs from other agencies.

Bill 21-0683 amends Chapter 3 of Title 13 of the District of Columbia Code to allow for constructive notice when a defendant cannot be found after diligent efforts or who by concealment seeks to avoid the service of process and to reduce the cost of providing notice in custody cases.

Bill 21-0683 amends the District of Columbia Theft and White Collar Crimes Act of 1982 to repeal the Fraud Prevention Fund authorization.

FISCAL IMPACT

The Committee adopts the attached fiscal impact statement from the Chief Financial Officer.

SECTION-BY-SECTION ANALYSIS

Title I ***Youth Services and Rehabilitation Enhancement***

Section 101 States the short title.

Section 102 Amends Section 16-1031 of the District of Columbia Official Code to allow for the pre-arrest diversion of youth who are involved in an intrafamily offense that does not constitute intimate partner violence.

Amends Section 16-2301 to add a definition of the phrase "penal institution".

Amends Section 16-2310 to prohibit the detention of status offenders and to strengthen the presumption against detention of delinquent children so that it is only used when necessary to protect the person or property of others from significant harm or to secure the child's presence at the next court hearing.

Amends Section 16-2312 to provide for a prompt hearing on the use of shelter care for persons in need of supervision.

Amends Section 16-2313 to ban the predisposition detention of persons in need of supervision in detention homes for allegedly delinquent children, to provide for the transfer of youth under the age of 18 from the custody of the Department of

Corrections to the custody of the Department of Youth Rehabilitation Services by October 1, 2018, and to disallow the transfer of children to places of detention for adults.

Amends Section 16-2320 to ban the commitment of children under 10 years of age to DYRS and to ban the secure detention of persons in need of supervision.

Amends Section 16-2322 to terminate the dispositional order for persons in need of supervision once they reach their eighteenth birthday.

Amends Section 16-2331 to authorize the sharing of juvenile case records among specific agencies for the purpose of the delivery of services, monitoring recidivism, or monitoring the efficacy of services.

Amends Section 16-2332 to authorize the sharing of juvenile social records among specific agencies for the purpose of the delivery of services, monitoring recidivism, or monitoring the efficacy of services.

Amends Section 16-2333 to authorize the sharing of police and law enforcement records among specific agencies for the purpose of the delivery of services, monitoring recidivism, or monitoring the efficacy of services.

Amends Section 16-2335 to authorize the sealing of juvenile arrest records in cases where no petition has been filed.

Amends Section 16-2336 to apply penalties for the unlawful disclosure of records to include records sealed on the grounds of actual innocence.

Section 103 Amends Section 23-1322 of the District of Columbia Official Code to require that juveniles under the age of 18 be transferred to the Department of Youth Rehabilitation Services after October 1, 2018.

Title II ***Improving Conditions of Confinement***

Section 201 States the short title.

Section 202 Provides definitions.

Section 203 Bans the use of disciplinary room confinement for juveniles, restricts the use of room confinement for other reasons, and requires data collection on the use of room confinement.

Section 204 Provides for the transfer of youth under the age of 18 from the Correctional Treatment Facility and the Central Detention Facility to secure juvenile facilities within 6 months of a finding that there have been four consecutive quarters in which secure juvenile facilities have had the capacity to house the additional youth.

Title III ***Incarceration Reduction***

Section 301 States the short title.

Section 302 Amends Section 101(a) of the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010 to require the development of a pilot program in collaboration with community partners to provide victim-offender mediation in cases deemed appropriate by the Attorney General.

Section 303 Amends Section 386 of the Revised Statutes of the District of Columbia to require MPD to cooperate and share records with the Criminal Justice Coordinating Council for the purpose of preparing an analysis of the root causes of juvenile crime.

Section 304 Amends Section 1505 of the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001 to require the Criminal Justice Coordinating Council to conduct an analysis of the root causes of juvenile crime that incorporates a voluntary survey of youth in the custody of Department of Youth Rehabilitation Services or the Department of Corrections.

Section 305 Amends Section 2(b) of An Act To create a Department of Corrections in the District of Columbia to require the Department of Corrections to cooperate and share data with the Criminal Justice Coordinating Council to support their analysis of the root causes of juvenile crime.

Section 306 Amends An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes to eliminate mandatory minimums for crimes committed when a person is under 18 years of age, to end the use of juvenile life without parole sentences, and to permit juveniles who have served at least 25 years of a sentence for a crime committed when they were under the age of 18 to obtain a review of their sentence by the court.

Title IV ***Youth Rehabilitation Accountability***

Section 401 States the short title.

Section 402 Amends the Department of Youth Rehabilitation Services Establishment Act of 2004 to require the Department of Youth Rehabilitation Services to prepare a manual for parents of juveniles residing in secure juvenile facilities, to cooperate with the Criminal Justice Coordinating Council in its research on the root causes of youth crime, and to require DYRS to evaluate the effectiveness of its rehabilitation programs by collecting data on committed and previously committed youth who left commitment in the previous three years.

Title V ***Constructive Notice***

Section 501 Amends Section 13-336 of the District of Columbia Official Code to allow for service by publication upon a defendant who cannot be found after diligent efforts or who by concealment seeks to avoid service of process.

Amends Section 13-340 to allow alternative publication in child custody cases where the plaintiff is unable to pay the cost of publishing an advertisement.

Title VI ***Fraud Prevention Fund Repeal***

Section 601 Repeals Section 126(n) of the District of Columbia Theft and White Collar Crimes Act of 1982.

Title VII ***Fiscal Impact; Effective Date***

Section 701 Provides for the applicability of the bill.

Section 702 Adopts the fiscal impact statement of the Chief Financial Officer.

Section 703 Provides the effective date of the legislation.

COMMITTEE ACTION

On October 5, 2016, the Committee on the Judiciary held an Additional Meeting to consider and markup B21-0683, the "Comprehensive Youth Justice Amendment Act of 2016". The meeting was called to order at 9:30 a.m. Chairperson Kenyan R. McDuffie recognized a quorum consisting of himself and Councilmembers Anita Bonds and Jack Evans. Chairperson McDuffie, without objection, moved the Committee Report and Print for B21-0683 en bloc with leave for staff to make technical and clarifying changes. After an opportunity for discussion, the Committee voted 3-0 to approve the Committee Report and Print with the members voting as follows:

YES: Chairperson McDuffie and Councilmembers Anita Bonds and Jack Evans

NO: None

PRESENT: None

ABSENT: Councilmembers Mary M. Cheh and LaRuby May

LIST OF ATTACHMENTS

(A) B21-0683, as introduced
(B) Notice of Public Hearing on B21-0683, as published in the *District of Columbia Register*
(C) Agenda and Witness List
(D) Witness Testimony
(E) Fiscal Impact Statement

(F) Legal Sufficiency Determination
(G) Comparative Print of B21-0683
(H) Committee Print of B21-0683

ATTACHMENT A

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, N.W.
Washington D.C. 20004

Memorandum

To : Members of the Council

From : Nyasha Smith, Secretary to the Council

Date : April 05, 2016

Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Legislative Meeting on Tuesday, April 5, 2016. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Comprehensive Youth Justice Amendment Act of 2016", B21-0683

INTRODUCED BY: Councilmembers McDuffie, Grosso, Nadeau, Bonds, May, Silverman, and Chairman Mendelson

CO-SPONSORED BY: Councilmember Allen

The Chairman is referring this legislation to the Committee on Judiciary.

Attachment

cc: General Counsel
Budget Director
Legislative Services

Chairman Phil Mendelson

Councilmember Kenyan R. McDuffie

Councilmember Anita Bonds

Councilmember David Grosso

Councilmember LaRuby May

Councilmember Brianne Nadeau

Councilmember Elissa Silverman

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Title 16 of the District of Columbia Code to allow the Court to make the necessary findings for Special Immigrant Juvenile status until an unmarried individual turns 21, to strengthen the presumption against pre-disposition detention of a child, to ban the pre-disposition detention of status offenders, to end the rebuttable presumption in favor of the detention of children who have committed certain offenses, to transfer individuals under the age of 18 charged as adults to juvenile facilities, to end the commitment of children under the age of 10, to allow the sharing of juvenile information for the purpose of evaluating the efficacy of diversion programs, to end the pretrial detention of Title 16 youth in adult facilities, to restrict the use of room confinement of juveniles, to ban the use of disciplinary segregation of juveniles, to better inform the families of committed juveniles about their commitment and the resources available to them, and to limit the use of restraints on confined juveniles, to require better data collection and sharing; to amend the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act to require the establishment of a victim-offender mediation program; to amend An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, to eliminate mandatory minimums for juveniles charged as adults and to ban the use of juvenile life without parole; to amend the Department of Youth Rehabilitation Services Establishment Act of 2016 to restrict the use of restraints on juveniles, to require an annual analysis of the root causes of juvenile crime, and to require the agency to collect information regarding the effectiveness of rehabilitation programs from other agencies; to amend Title 13 of the District of Columbia Code to allow for constructive notice when a

defendant cannot be found after diligent efforts or who by concealment seeks to avoid the service of process.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Comprehensive Youth Justice Amendment Act of 2016".

TITLE I. YOUTH SERVICES AND REHABILTATION ENHANCEMENT.

Sec. 101. Short title.

This title may be cited as the "Strengthening Youth Services and Rehabilitation Amendment Act of 2016".

Sec. 102. Section 101 of the Department of Youth Rehabilitation Services Establishment Act of 2004, effective April 12, 2005 (D.C. Law 15-335; D.C. Official Code § 2-1515.01), is amended as follows:

(a) Paragraph (12) is amended to read as follows:

"(12) "Youth" means a "child" as that term is defined by § 16-2301(3) or an individual under the age of 18 transferred pursuant to § 16-2313(d) or § 16-2313(d-1). The terms "juvenile", "child", and "resident" appearing in this subchapter are used interchangeably.".

Sec. 103. Chapter 23 of Title 16 of the District of Columbia Official Code is amended as follows:

(a) Section 16-2301 is amended as follows:

(1) Subsection (3) is amended to read as follows:

"(3)(A) The term "child" means an individual who is under 18 years of age, except that the term "child" does not include an individual who is sixteen years of age or older and –

"(i) Charged by the United States attorney with (I) murder, first degree sexual abuse, burglary in the first degree, robbery while armed, or assault with intent to

commit any such offense, or (II) an offense listed in clause (I) and any other offense properly joinable with such an offense;

"(ii) Charged with an offense referred to in subparagraph (A)(i)(I) and convicted by plea or verdict of a lesser included offense; or

"(iii) Charged with a traffic offense.

"(B) For purposes of this subchapter, the term "child" also includes:

"(i) A person under the age of twenty-one who is charged with an offense referred to in subparagraph (3)(A)(i)(I) or (3)(A)(iii) committed before they attained the age of sixteen, or a delinquent act committed before they attained the age of eighteen; or

"(ii) An unmarried person under the age of twenty-one on behalf of whom a motion is filed for Special Immigrant Juvenile factual findings, requesting a determination that the person was abused, neglected, or abandoned for purposes of § 101(a)(27)(J) of the Federal Immigration and Nationality Act.".

(2) A new subsection (46) is added to read as follows:

"(46) The term "penal institution" shall have the same meaning as provided in section 2(6) of An Act To prohibit the introduction of contraband into the District of Columbia penal institutions, approved December 15, 1941 (55 Stat. 800; D.C. Official Code § 22-2603.01(6))."

(b) Section 16-2310 is amended as follows:

(1) Subsection (a) is amended by striking the phrase "or in need of supervision".

(2) Subsection (a)(1) is amended to read as follows:

"(1) to protect the person or property of others or of the child from significant harm, or".

(3) Subsection (a-1) is repealed.

(4) Subsection (b) is amended by striking the phrase "unless it appears" and inserting the phrase "unless the child is alleged to be delinquent or in need of supervision and unless it appears" in its place.

(c) Section 16-2313 is amended as follows:

(1) Subsection (a) is amended by striking the phrase "to be neglected" and inserting the phrase "to be neglected or in need of supervision."

(2) Subsection (b) is amended by striking the phrase "to be in need of supervision or (except as provided in subsection (d) or (e)) is alleged".

(3) Subsection (b)(3) is amended by striking the phrase "or children alleged to be in need of supervision".

(3) Subsection (d) is amended to read as follows:

"(d) Beginning October 1, 2018, no individual under 18 years of age may be detained in a penal institution or other facility for the detention of adults. All individuals under the age of 18 that are detained in a penal institution or other facility for the detention of adults must be transferred to a detention facility described in subsection (b)(3) prior to October 1, 2018.".

(4) A new subsection (d-1) is added to read as follows:

"(d-1) After October 1, 2018, the appropriate official of a penal institution or other facility for the detention of adults shall inform the Superior Court immediately when an individual under the age of 18 years is received at the facility and shall transfer the individual to a detention facility described in subsection (b)(3).".

(5) Subsection (e) is repealed.

(d) Subsection (c)(2) of section 16-2320 is amended to read as follows:

"(c)(2) Transfer of legal custody to a public agency for the care of delinquent children, except that legal custody shall not be transferred to a public agency for the care of delinquent children when the child in question is less than ten years of age.".

(e) Section 16-2331(c)(4)(B) is amended to read as follows:

"(B) Authorized personnel in the Mayor's Family Court Liaison, the Department of Health, the Department of Behavioral Health, the Child and Family Services Agency, the Department of Human Services, and the Office of the Attorney General for the purpose of:

"(i) The delivery of services to individuals under the jurisdiction of the Family Court, or their families; or,

"(ii) Monitoring recidivism of and the delivery of services to:

"(I) Individuals under the jurisdiction of the Family Court; and

"(II) Youth who have been diverted by law enforcement, by the Office of the Attorney General of the District of Columbia, or pursuant to D.C. Official Code § 16-2305.02;".

(f) Section 16-2332(c)(4)(D) is amended to read as follows:

"(D) Authorized personnel in the Mayor's Family Court Liaison, the Department of Health, the Department of Behavioral Health, the Child and Family Services Agency, the Department of Human Services, and the Office of the Attorney General for the purpose of the delivery of services to individuals under the jurisdiction of the Family Court or their families.

(g) Section 16-2333(b)(4)(C) is amended to read as follows:

"(C) Authorized personnel in the Mayor's Family Court Liaison, the Department of Health, the Department of Behavioral Health, the Child and Family Services Agency, the Department of Human Services, and the Office of the Attorney General for the purpose of:

"(i) The delivery of services to individuals under the jurisdiction of the Family Court or their families; or

"(ii) Monitoring recidivism of and the efficacy of services provided to:

"(I) Individuals under the jurisdiction of the Family Court; and

"(II) Youth who have been diverted by law enforcement, by the Office of the Attorney General of the District of Columbia, or pursuant to D.C. Official Code § 16-2305.02;".

Sec. 104. Section 23-1322(g) of the District of Columbia Official Code is amended as follows:

(a) Paragraph (3) is amended by striking the word "and".

(b) Paragraph (4) is amended by striking the period and inserting the phrase "; and" in its place.

(c) A new paragraph (5) is added to read as follows:

"(5) After October 1, 2018, if the person is younger than 18 years of age, direct that the person be detained in a juvenile facility, as described in § 16-2313(b)(3), pursuant to the federal standards at 28 C.F.R. § 115.14.".

TITLE II. IMPROVING CONDITIONS OF CONFINEMENT.

Sec. 201. Short Title.

This title may be cited as the "Improving the Confinement of Juveniles Amendment Act of 2016".

Sec. 202. Definitions.

For the purposes of this act, the term:

(1) "Juvenile" means any individual under 18 years of age and any "child" as defined in D.C. Code § 16-2301(3).

(2) "Penal institution" shall have the same meaning as provided in section 2(6) of An Act To prohibit the introduction of contraband into the District of Columbia penal institutions, approved December 15, 1941 (55 Stat. 800; D.C. Official Code § 22-2603.01(6)).

(3) "Room confinement" means the involuntary restriction of a juvenile in a cell or room other than during normal sleeping hours, shift-changes, or facility-wide lockdowns.

(4) "Secure juvenile residential facility" shall have the same meaning as provided in section 2(7) of An Act To prohibit the introduction of contraband into the District of Columbia penal institutions, approved December 15, 1941 (55 Stat. 800; D.C. Official Code § 22-2603.01(6)).

(5) "Serious mental illness" means a substantial disorder of thought or mood that significantly impairs judgment, behavior, the capacity to recognize reality, or the ability to cope with the ordinary demands of life.

Sec. 203. Limitations on the use of room confinement.

(a) Neither the Department of Corrections nor the Department of Youth Rehabilitation Services shall use room confinement for the purposes of punishment, disciplinary sanction, administrative convenience, or staffing shortages.

(b) Except as provided in subsection (f), a penal institution or secure juvenile residential facility may use room confinement only upon a specific finding of:

(1) Imminent harm to the juvenile or another person;

(2) Imminent danger to the safe or secure operation of the penal institution or secure juvenile residential facility; or

(3) Disruption of a formal investigation.

(c) A licensed mental health provider ("provider") shall perform a mental health assessment on a juvenile placed in room confinement within 1 hour of placement. After an assessment, the Department of Youth Rehabilitation Services or Department of Corrections shall provide mental health services to the juvenile as appropriate.

(d) If any of the conditions in subsection (b) exist, the penal institution or secure juvenile residential facility may use room confinement; provided, that:

(1) The Department of Corrections or the Department of Youth Rehabilitation Services has made a specific written finding that there are no other reasonable means to eliminate the condition, and that room confinement is used only to the extent necessary to eliminate the condition identified;

(2) The agency administering the penal institution or secure juvenile residential facility promptly notifies the juvenile of the specific findings relied upon to make the determination to place the juvenile in room confinement;

(3) Such room confinement takes place under the least restrictive conditions practicable and consistent with the individualized rationale for placement;

(4) Staff develops a plan that will allow the youth to leave room confinement and return to programming as soon as possible; and

(5) Confinement is approved by a mental health professional that has assessed the juvenile in person.

(e) Room confinement shall be used for the briefest period of time possible not to exceed six hours. If a mental health professional deems that the level of crisis intervention necessary is not available in the current environment or, if at the end of six hours, the juvenile has not regained control over themselves, then the youth shall be transferred either to a mental health facility or the medical unit of the facility; provided that:

(1) Written notice of the decision and justification for the decision is provided to the juvenile upon transfer;

(2) The placement of the youth in the mental health facility or medical unit of the facility is reevaluated by a medical professional every 48 hours;

(3) Any continued placement of the juvenile in the mental health facility or medical unit is accompanied by a written notice to the juvenile of the decision and justification for the decision.

(f) The agency administering the penal institution or secure juvenile residential facility may grant a juvenile's request for room confinement provided that the juvenile is free at any time to revoke his or her request for confinement.

Sec. 206. Manual for families of juveniles.

Within 180 days of the effective date of this act, the Department of Youth Rehabilitation Services, in conjunction with other appropriate District agencies, shall develop a manual for families of juveniles residing in secure juvenile residential facilities which shall include, at a minimum, information on the operation of the institution or facility as it relates to families of

juveniles, information on government and community resources available for families of juveniles, and information and resources available for juveniles leaving confinement.

Sec. 207. Subtitle B of Title I of the Department of Youth Rehabilitation Services Establishment Act of 2004, effective April 12, 2005 (D.C. Law 15-335; D.C. Official Code § 2-1515.01 *et seq.*), is amended as follows:

(a) Section 152 (D.C. Official Code § 2-1515.52) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "who is known to be pregnant".

(2) Subsection (b) is amended by striking the phrase "who is known to be pregnant require restraints" and inserting the word "are" in its place.

(3) A new subsection (f) is added to read as follows:

"(f) Notwithstanding subsections (a) and (b) of this section, the Administrator may authorize the use of reasonable restraints on confined youth who are not in the third trimester of pregnancy, in labor, or in postpartum recovery, but who are either in transit to or from a secure facility or whose present or recent behavior has demonstrated that restraints are necessary to protect the safety of the respondent or others, or to prevent flight.".

TITLE III. INCARCERATION REDUCTION.

Sec. 301. Short Title.

This title may be cited as the "Incarceration Reduction Amendment Act of 2016".

Sec. 302. Section 101 of the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010, effective May 27, 2010 (D.C. Law 18-160; D.C. Official Code § 1-301.81(a)) is amended as follows:

(a) A new paragraph (a)(3) is added to read as follows:

"(a)(3) The Attorney General shall develop a program to provide victim-offender mediation as an alternative to the prosecution of juveniles in cases deemed appropriate by the Attorney General; provided, that participation in the mediation program established in this subsection shall be voluntary for both the victim and the offender.".

Sec. 303. Section 3a of An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, approved July 15, 1932 (47 Stat. 697; D.C. Official Code § 24-403.01), is amended as follows:

(a) Subsection (c) is amended by striking the phrase "required by law." and inserting the phrase "required by law; except that notwithstanding any other provision of law, if the person committed the offense while under 18 years of age:

(1) The court may issue a sentence less than the minimum term otherwise required by law;

(2) The court shall not impose a sentence of life imprisonment without the possibility of parole or release.".

TITLE IV. YOUTH REHABILITATION ACCOUNTABILITY.

Sec. 401. Short Title.

This title may be cited as the "Rehabilitation Accountability Amendment Act of 2016".

Sec. 402. The Department of Youth Rehabilitation Services Establishment Act of 2004, effective April 12, 2005 (D.C. Law 15-335; D.C. Official Code § 2-1515.01 *et seq.*), is amended as follows:

(a) Section 104 (D.C. Official Code § 2-1515.04) is amended as follows:

(1) Paragraph (13) is amended by striking the word "and" at the end of the sentence.

(2) Paragraph (14) is amended by the striking the period and inserting a semi-colon in its place.

(3) A new paragraph (15) is added to read as follows:

"(15) Conducting an annual analysis, to be submitted to the Council by October 1 of each year, of the root causes leading to the incarceration of the Department's current committed youth, including a voluntary survey of all current committed youth and any self-reported adverse childhood experiences; and".

(4) A new paragraph (16) is added to read as follows:

"(16) Evaluating the effectiveness of rehabilitation programs by collecting any available information from other District agencies on the education, employment, and criminal justice outcomes for currently or previously committed youth who are under twenty-four years of age.".

(b) A new section 104b is added to read as follows:

"Sec. 104b. Data Collection.

"(a) The Department shall request any available records on education, employment, and criminal justice outcomes of currently and previously committed youth who are under twenty-four years of age from any agency that has served the youth, including the:

"(1) Office of the State Superintendent of Education;

"(2) District of Columbia Public Schools;

"(3) Public charter schools;

"(4) University of the District of Columbia;

"(5) Department of Employment Services; and

"(6) Metropolitan Police Department.

"(b) All records collected by the Department pursuant to this section shall be kept privileged and confidential pursuant to section 106 of this act.".

TITLE V. CONSTRUCTIVE NOTICE

Sec. 601. Section 13-336(a) of the District of Columbia Official Code is amended to read as follows:

"(a) In actions specified by subsection (b) of this section, publication may be substituted for personal service of process upon a defendant who cannot be found after diligent efforts or who by concealment seeks to avoid the service of process, or against the unknown heirs or devisees of deceased persons."

TITLE VI. FISCAL IMPACT; EFFECTIVE DATE.

Sec. 701. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 702. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.

ATTACHMENT B

Council of the District of Columbia
COMMITTEE ON THE JUDICIARY
NOTICE OF PUBLIC HEARING
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004

COUNCILMEMBER KENYAN R. MCDUFFIE, CHAIRPERSON
COMMITTEE ON THE JUDICIARY

ANNOUNCES A PUBLIC HEARING ON

BILL 21-0683, THE "COMPREHENSIVE YOUTH JUSTICE AMENDMENT ACT OF 2016"

Thursday, June 2, 2016, 10:00 a.m.
Room 500, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

On Thursday, June 2, 2016, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on the Judiciary, will hold a public hearing on Bill 21-0683, the "Comprehensive Youth Justice Amendment Act". The hearing will be held in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 10:00 a.m.

The stated purpose of B21-0683 is to enact critical reforms to the District of Columbia's juvenile justice system that reduce over-incarceration through intervention and age-appropriate sentencing, prioritize rehabilitation, improve the conditions of confinement, foster accountability through data collection and analysis, and protect abused and neglected young immigrants.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify at the hearing should contact Diamond Wade, Legislative Aide, at (202) 727-8204, or via e-mail at dwade@dccouncil.us, and provide their name, telephone number, organizational affiliation, and title (if any) **by close of business, May 27, 2016**. Representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals testifying on their own behalf will be allowed a maximum of three minutes to testify. Witnesses should bring **twenty single-sided copies** of their written testimony and, if possible, also submit a copy of their testimony electronically to dwade@dccouncil.us.

For witnesses who are unable to testify at the hearing, written statements will be made part of the official record. Copies of written statements should be submitted either to the Committee or to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. **The record will close at the end of the business day on June 16, 2016.**

ATTACHMENT C

Council of the District of Columbia
COMMITTEE ON THE JUDICIARY
AGENDA AND WITNESS LIST
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004

COUNCILMEMBER KENYAN R. MCDUFFIE, CHAIRPERSON
COMMITTEE ON THE JUDICIARY

ANNOUNCES A PUBLIC HEARING ON

BILL 21-0683, THE "COMPREHENSIVE YOUTH JUSTICE AMENDMENT ACT OF 2016"

Thursday, June 2, 2016, 10:00 a.m.
Room 500, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

I. CALL TO ORDER

II. OPENING REMARKS

III. WITNESS TESTIMONY

i. Public Witnesses

1. Santos Amaya, Youth
2. Kevin Ayala Franco, Youth
3. Oscar Paz, Youth
4. Margot Dankor, Pro Bono Coordinating Attorney, Kids in Need of Defense
5. Norma Izaguirre, Youth
6. Alvaro Benavidez, Youth
7. Guerdrudis Perez, Youth
8. Lita Trejo, Case Manager, The Next Step Public Charter School
9. Chris Obermeyer, Public Witness
10. William H. Lamar, IV, Pastor, Metropolitan African Methodist Episcopal Church
11. Roger Gench, Senior Pastor, New York Avenue Presbyterian Church
12. Kristin Henning, Director, Georgetown Juvenile Justice Clinic
13. Jason Zeidenberg, Director of Research and Policy, Justice Policy Institute

14. R. Daniel Okonkwo, Executive Director, D.C. Lawyers for Youth
15. Irvin Nathan, Board President, Council for Court Excellence
16. Emily Tatro, Policy Analyst, Council for Court Excellence
17. Akiva Liebermann, Senior Fellow, Urban Institute
18. Marcy Mistrett, Executive Director, Campaign for Youth Justice
19. Charlie Curtis, Poet Ambassador, Free Minds Book Club and Writing Workshop
20. Arthur L. Burnett, Sr., Retired Judge, Superior Court of the District of Columbia
21. Edgar S. Kahn, Founder, Youth Court
22. Nikola Nable-Juris, Policy Counsel, Campaign for the Fair Sentencing of Youth
23. Andre Williams, Public Witness
24. Kelli Taylor, Co-Founder & Book Club Facilitator, Free Minds Book Club
25. Halim Flowers, Public Witness
26. Lisa Pilnick, Deputy Executive Director, Coalition for Juvenile Justice
27. Maheen Kaleem, Staff Attorney, Rights4Girls
28. Sharra Greer, Policy Director, Children's Law Center
29. Yvette Butler, Policy Counsel, Amara Legal Center
30. Deborah Shore, Executive Director, Sasha Bruce Youthwork
31. Monica Hopkins-Maxwell, Executive Director, American Civil Liberties Union of the Nation's Capital
32. Eugene Puryear, Executive Director, Stop Police Terror Project
33. Tyrone Parker, Executive Director, Alliance for Concerned Men
34. Courtney Stewart, Chairperson, The Reentry Network for Returning Citizens
35. Maggie Riden, Executive Director, D.C. Alliance for Youth Advocates
36. Crystal Carpenter, Public Witness
37. Evelyn Johnson, Public Witness
38. Tahir Duckett, Member, Law for Black Lives D.C.
39. Erica McWhorter, Co-Chair, Legal Redress Committee, NAACP D.C.
40. Max Kwarteng, Student Attorney, Law Students in Court
41. Penelope Spain, Executive Director, Open City Advocates
42. Emily MacLeod, Legal Fellow, The D.C. Prisoners' Project, Washington Lawyers' Committee for Civil Rights Under the Law
43. Brian Smith, Public Witness
44. Sarah Comeau, Co-Founder & Director of Programs, School Justice Project

45. Patrice Sulton, Chair, Legislation Committee, D.C. Association of Criminal Defense Lawyers
46. Dorothy Brizill, Executive Director, D.C. Watch
47. Jenifer Wicks, Public Witness
48. Andre Phillips, Chairperson, Fraternal Order of Police, Department of Youth Rehabilitation Services Labor Committee
49. Nicholas Marritz, Staff Attorney, Legal Aid Justice Center
50. Smita Dazzo, Staff Attorney, Catholic Charities of the Archdiocese of Washington
51. Christina Wilkes, Staff Attorney, Grossman Law, LLC
52. Katrine Noncent Shaw, Staff Attorney, Ayuda
53. Terry Law, Promotor, Latin American Youth Center
54. Sarah Bryer, Executive Director, National Juvenile Justice Network
55. Jennifer Lutz, Staff Attorney, Children's Center for Law and Policy
56. Tim Curry, Director of Training & Technical Assistance, National Juvenile Defender Center
57. Mai Fernandez, Executive Director, National Center for Victims of Crime
58. Jodi Ovca, Executive Director, AccessYouth
59. Josh Rovner, State Advocacy Director, The Sentencing Project
60. Briane Cornish, D.C. Reentry Task Force
61. Michael Sindram, Public Witness
62. Adam Clark, Public Witness
63. Tiane Dorman, Public Witness
64. Mark Hecker, Public Witness
65. Gaillard T. Hunt, Public Witness
66. Dominica Jackson, Public Witness

ii. Government Witnesses

1. Clinton Lacey, Director, Department of Youth Rehabilitation Services
2. Natalie Ludaway, Chief Deputy Attorney General, Office of the Attorney General
3. Laura Hankins, Special Counsel, Public Defender Service of the District of Columbia

IV. ADJOURNMENT

ATTACHMENT D

Council of the District of Columbia

Committee on the Judiciary

Public Hearing on B21-0683, the "Comprehensive Youth Justice Amendment Act of 2016

Thursday, June 2, 2016

Testimony of Santos Guevara.

I am Santos Guevara. I am 18 years old. I am in high school and I am fighting for my dreams. I am here to tell you why it is important to change the law from 18 years to 21 years.

I arrived to the United States 3 years ago, when I was 15. I never talked to an immigration lawyer, because I did not think I had the possibility to stay legally in this country. When I decided to participate in a program to tell my story, and it was published in the Washington Post in October 2015, my advisor at school saw it. He saw that I wanted to be a lawyer. His wife is a lawyer, and he said I could talk to her to get some tips.

When I heard that the ICE raids were happening in January of this year (2016), I asked my advisor to ask his wife about them. Then she asked some questions about my status, and said I might have the possibility to stay legally in the country because of abandonment by my father and some family violence.

I met with her as my lawyer in January and there were 3 weeks until I turned 18 years old. She told me that she would help me with my case, and she was 90% sure we could win. She said that I had the possibility to qualify for SIJS (Special Immigrant Juvenile Status) but that my brother would have to get my custody before I turned 18. I thought that would be impossible because it wasn't enough time. We started doing all the work. Two weeks later, I had the court. In 45 minutes that we were in the court, the judge declared that I won the case. That was a blessing because there were only 2 weeks, and she put all her effort to make it possible to overcome this challenge. Now, I am waiting for my green card.

It is important to make the law until 21 years old because if I hadn't won the first case, I wouldn't be able to be here legally because of my age. While many young people like me qualify, they cannot win their case before they turn 18. Some will get deported because of their age and because most have come here because of the violence in our country, they have the risk to die if they go back. They will not able to do anything to improve their life like study or work. For this reason, it is important to make the law to 21 years old to give more opportunities to the young people to continue with their dreams.

Hello,

Mi name is Oscar Paz. I come in representation of many young people that live in the District of Columbia and to speak with you about how this law could benefit so many of us and we won't have to move to other states where this law already exists. The majority of us are studying, about to graduate, to have a better shot at going to a good university and leave the fear behind that many immigrants have that we, all of a sudden, are returned to our country of origin, and with the visa we would feel a lot safer and with a motivation to keep going forward in our studies and in society with new aspirations and opportunities to follow.

I am a clear example of one of these students, and there are many more like me who are waiting for an opportunity like this one to be legal here and to obtain all of the benefits that this visa brings. Like me many young people ask the same questions, why am I studying? There are very few opportunities that I have to continue in university or to improve myself. If one day I am caught by immigration authorities and I am sent back all of this time and sacrifice of going to school would be like thrown in the trash. Everyone deserves an opportunity and with this law I see mine and that of many others like me.

One of the greatest inspirations that I have is my mother. I never had a father, he abandoned us before I was born, but I have my mother who supports me in everything. I know many of other young people like me, and many others even worse without a father or a mother that supports them so they can move forward and give them a reason for that. This law would be like an award or acknowledgement for these young people that give everything of themselves every day in this country and particularly in this city.

I study at Cardozo and like me there are many students who would benefit from this law. I invite you to come to the school, meet and interact with other students so you can appreciate the happiness of every one when you tell them about this opportunity and how the life of every one of us can change with this law and, of course, the development of the city.

In conclusion, many would benefit but even more would be grateful if you pass this law. Please, think about the young people and in particular those whom with much effort are going to a country, a city of good, and deserve an opportunity and a motivation to improve themselves. For us, for our families, for this city and for this country, say yes to this law and to the opportunities for youth.

BEFORE THE DISTRICT OF COLUMBIA COUNCIL
JUDICIARY PUBLIC HEARING ON B-21-0683
THE "COMPREHENSIVE YOUTH JUSTICE AMENDMENT ACT OF 2016"

To: Members of the Committee on the Judiciary

From: Nicholas Marritz, Esq., Staff Attorney, Legal Aid Justice Center

Re: Strengthening Youth Services and Rehabilitation Amendment Act of 2016, Sec. 103

Date: June 2, 2016

Position: SUPPORT

Councilmembers and Members of the Committee:

My name is Nicholas Marritz, and I'm an attorney with the Legal Aid Justice Center. LAJC provides free legal help to low-income people in Virginia. And as part of my job, I've worked with refugee children and families from one end of the Commonwealth to the other, who have come fleeing unimaginable violence in Guatemala, Honduras, and El Salvador. But although I practice in Virginia, I live right here in Ward 4. And that's why I'm testifying before you today: because just like in Virginia, refugee children in D.C. are currently missing out on three years of potential eligibility for a green card that they could get under federal law. And I want to make sure that the children who are seeking refuge in *my* community are able to have safe, secure, and fully-developed lives. That's why I'm asking you to support this legislation, which would fix the mismatch between federal law and D.C. law.

As you have heard, a federal law called Special Immigrant Juvenile Status, or "SIJ", allows refugee children to apply for a green card if they can prove to a family court that they can't reasonably be reunited with a parent who has abused, neglected, or abandoned them under D.C. law. Typically, the family court makes these fact findings in a custody order, which the child can then submit to the immigration authorities for evaluation. But even though federal law allows refugee children to submit custody orders obtained before age 21, under current law, D.C. courts won't make those findings once the child turns 18. So these young people, through no fault of their own, are missing out on three years that they might have to present their stories in D.C. court and seek safety from the violence of their homeland.

As a Virginia advocate, I've seen firsthand the truly tragic harm that this state-and-federal mismatch can make. Nothing hurts me more than to hear a young person describe to me the pain, the anguish, the terrible fear they have escaped in their home country—and then having to turn the family away, because the child is going to be 18 in a few months. Or just turned 18 three weeks ago. Maybe if they lived in a state like Maryland—which fixed this problem two years ago—they would be able to keep their family safe and intact. But because they live in a state where 18-year-olds are barred at the courthouse door, we have to say sorry, we can't represent you. Best of luck.

Nothing hurts more than giving the bad news to a young woman like Maria, a young woman from El Salvador. Maria who came into my office with her young son Martin, who was just one-and-a-half years old. Maria was 16 when she got pregnant. The father of her child was 22, and he had abandoned her in El Salvador once he found out she was carrying his child. As if that weren't enough, Maria then had to flee El Salvador with the baby, because she received a death threat from members of a local gang; they said they wanted to punish a cousin of hers, who was in a rival gang. So they fled to the United States, where mother and child are now living with family members in Northern Virginia as they await their immigration court dates. Baby Martin is now two, and clearly qualifies for permanent residence. But even though he qualifies, Maria is now 18 years old and has aged out of Virginia's family courts. If she is ordered deported, she will face a terrible choice: take her son back with her, subjecting him to the threat of violence and missing out on a green card, or leave her son behind. But if the family courts could hear custody cases until age 21, mother and child could stay together in safety.

In D.C. there are many Marias. So many others in this room can tell you about them. Happily, there is a solution before you today: amend D.C.'s custody procedures, so that refugee children in the District can get the maximum protection they're entitled to under federal law. With your help, cases like Maria's can have a happy ending. I strongly urge you to support the Strengthening Youth Services and Rehabilitation Amendment Act of 2016. Thank you.

My name is Alvaro Benavidez. I'm 19 years old and I'm a student at Next Step. I have lived in Mt Pleasant with my uncle for 2 years. I'm one of the residents of Washington who needs you to change the law about Special Immigrant Juvenile Status. I'm here today to tell my story.

I'm from El Salvador. When I turned 12 years old my parents told me that there wasn't money for me to keep studying. In place of studying, a started working with my father in agriculture.

At 15 years old, other problems began. Where I'm from, there are very dangerous gangs. Gang members wanted me to work with them, bu I resisted. But they can kill you for not cooperating.

My dad didn't spend time in the house, and when I was 17 years old my mom died of an illness. After she died, the gang members looked for me even more. I made the decision to come to the United States. I came with nothing. I had to ride on the top of a train. Believe me when I say that I'm one of the lucky ones to have arrived here alive.

When I arrived in the United States, immigration caught me at the border. I called my uncle and he took responsibility for me. He has lived in Washington for 20 years. When I arrived in DC, my uncle registered me in school, he bought me clothes, and he made me feel at home. He did the same for my sister when she came a year later.

My uncle has been very good to us. He always supports us. We don't have to work or worry about anything. I can focus on my studies. Every day when my uncle gets up he wakes us up saying, "Wake up! I'm going to work so you become a lawyer," or "so you become a soldier," or other careers.

I dream of being a teacher. But the truth is that I don't know what future I have here. I still have a problem with immigration. If I return to my country, I don't have anything. Death waits for me. I'm told that my father has another family now and that he drinks a lot. Lawyers here tell me that young people like me have a protection under the law, but because of my age, I don't qualify. The same thing happened to my sister.

It's not easy being here today, but I want you to understand how important this change in the law is. Washington is my home now, I don't have another. Today I tell my story because I want me, my sister and other youth like us to have a future. I hope you hear us.

My own story (English Translation)

My name is Guerdrudis Perez Juarez. I'm 18 years old and I'm a student at Roosevelt High School. I live in Washington with my father, but I'm from Quezaltenango, Guatemala. I'm here today because I want there to be a change in the law for immigrant youth.

Many ask me why I'm here. I'm here to make something of myself in life, because in my country, life isn't easy, life for women is washing clothes and I don't want that for my future. I wanted to keep studying but there wasn't enough money in my country and I had to drop out of school at 15 years old, and I learned how to sew clothing. I cried every night because I couldn't study, because I wanted to study and make something of myself.

I also couldn't make something of myself in my country because of my grandparents. I have a grandfather who doesn't love me, he's very angry and he hit me a lot with a rope. Sometimes I cry because my grandparents don't love me and my mother couldn't protect me from them in Guatemala, and my father was in the United States. I decided that I wanted to come to the United States. Little by little I saved money from my work to come here.

Getting here isn't easy. I didn't eat for two days, and I cried a lot and I thought about everything I had lived through.

Many ask me what I'm here. I'm here because I want to make something of myself, and I like Washington because it is beautiful because of the streets, the trees and here one doesn't die of hunger, and there are a lot of schools. I came here to be with my father who loves me and who supports me in everything. I know that nobody is going to hurt me here.

I came to make something of myself, but I'm learning that here Washington they don't help young people that are 18 years old, I cry because there's nothing I can do.

They tell me to move to Maryland but I don't want to go because I like where I am. Sometimes I wonder why my life is like this. I only want to make something of myself.

I want to advance in my studies and to make a good future for my children someday. I want to make something of myself. I want to be an elementary school teacher.

Thank you for your attention.

El Próximo Paso
THE NEXT STEP
PUBLIC CHARTER SCHOOL

May 31, 2016

Greetings Councilmembers, and thank you for the opportunity to highlight the challenges and promises of raising the age for the Juvenile Visa up to 21-years-old in the District of Columbia.

My name is Lita Trejo and I am a Case Manager at The Next Step Public Charter School. TNSPCS is a bilingual GED and ESL program in Columbia Heights serving 400 youth and young adults, ages 16-24 per year. At school, besides education, we provide comprehensive support services in order to help student remove and address any barriers that keep them from being able to stay in school and succeed. Unfortunately, for many of them their legal status is a very large barrier.

Our students have had interrupted education and face numerous life challenges. Many are immigrants and had left their countries to escape violence. Some of them have been abandoned, neglected and/or abused.

The purpose of the Special Juvenile Immigrant Visa (SJI) program is to help foreign children in the United States. Several of these youths are candidates for this visa but unfortunately when we refer them for assistance they are too close to the age limit in Washington DC (18-years-old). For these youth who are normally behind in education and have been separated from their families for several years, the urge to increase the age to 21 is very important.

The opportunity to become permanent residents is a tremendous chance for these youth to continue with their education and become productive citizens of our society. In order to understand and support these youth who are here fleeing from danger from their countries, officials and providers must recognize the realities they face:

- The family reunification is very important for any human being but specially for adolescents who are developing and expected to conduct themselves as adults,
- Becoming a legal resident of the United States is one piece of the enigma; older youth typically need a collection of services and supports, including but not limiting education, employment, and mental health services because many (if not all) have faced severe trauma in their countries and on their journey here,

- These youth also need to develop life and coping skills, and they require understanding, support, and guidance in order to become members of our community – most of these services are difficult to obtain when you don't have legal status,
- Washington, DC must address these needs, as well as the legal and social issues many immigrants typically face.

In closing, the commitment to their basics needs should be long-term and comprehensive. We cannot expect a safe society if we as citizens are re-neglecting these youths by rejecting them. Yet, it is also important to recognize the tremendous and additional benefits to allow these young adults to be eligible for Juvenile Immigrant Visa to improved self-esteem and dignity, a better quality of life and we should also consider the increased chances of participation in civic life.

We have the tremendous opportunity in the District of Columbia to increase the eligibility to the Juvenile Immigrant Visa to the age of 21 to create pathways for strong youth and stronger families. Honestly, there are some cities that have already made the changes needed to expand the eligibilities to the age 21.

What can City Council do to facilitate and to support our youth and their families?

- Increase the eligibility age for the Juvenile Immigrant Visa to 21
- Target resources for expansion of quality legal services
- Invest in youth activities in our community

I urge City Council and the Mayor to see the need to increase the chances of these youth to stay with their families and to have decent lives. If we work together, eventually we would minimize the probability of fractured families and as a result, these young people would have the opportunity to thrive.

Sincerely,

Lita Trejo
Case Manager
The Next Step Public Charter School
lita@nextsteppcs.org
202-905-9744

Council of the District of Columbia

Comprehensive Youth Justice Amendment Act of 2016
June 2nd, 2016

Testimony of Chris Obermeyer

I am pleased to submit testimony today and discuss with you the importance of passing the Comprehensive Youth Justice Amendment Act of 2016. I have been a resident of the District for five years and I have taught high school science in DC Public Schools (DCPS) for five years. Of those five years, I have had the extreme pleasure of spending two of them working specifically with students who are recently arrived immigrants to the United States and English language learners.

This year specifically I have had the privilege of working with students like Oscar, who you heard from moments ago. While I could spend hours telling you about how much I enjoy every moment I have had with them, I find it particularly relevant to discuss how this legislation would impact the education and lives of young immigrants in the District.

It is well known that the lives of students outside of school significantly impacts their educational achievement inside the school. Obviously, students with more support usually do better than those that have little or no support outside of their homes. While each student has a different reason for coming to the United States and unique stories, many have come to the United States seeking safety and support. Many arrive alone and spend years trying to make up for interrupted formal education while learning English at the same time. For those that lack support from a family member or other trusted adult this is particularly challenging, even more so for those who are 18 or older who have limited community supports.

This year alone we have had many students over the age of 18 simply stop coming to school in spite of endless efforts from school counselors, social workers, teachers, and administrators. While this is obviously disappointing, if you're empathetic you might be able to understand given their limited options. Education is often referred to as the "great equalizer", but

that is not necessarily true for students with no or little adult support, nearly no known pathways to staying in the United States, and limited post-secondary education options given their immigration status. Living in the fear of what may feel like imminent deportation, students over the age of 18 are forced to choose between only a few options.

1. They can continue going to school in Washington, DC with a potential pay off given their limited options to attend certain colleges and their ineligibility for many scholarships. One such student choose to stay at my school this year because he had no adult support who lived in Maryland, was accepted to a local university, and will have to work full time and take out loans in order to pay for his education. This student in particular has a 4.0 GPA and is taking a risk hoping that he will be able to stay in the United States.
2. They can drop out to work more so that if/when they are forced to go back to their country of origin they can return more stable. One such student who was only months away from graduating quit school because he decided that having the money would be a better pay off in the long run than going to school.
3. If they have other familial support elsewhere in the US they can move to a state like Maryland that already has provisions allowing young people under the age of 21 who meet the requirements to apply for Special Immigrant Juvenile Status. One such student left school last year and moved to Maryland so that he could finish high school and have a pathway to residency. This student graduated this year and will be attending the University of Rochester in the Fall on a full scholarship.

These students should have opportunities and passing this law will not only give them formalized adult relationships that will give them the support they desperately need but it will encourage them to invest fully into their education and the District by giving them additional options for a pathway to residency.

Thank you for the opportunity to testify today and I look forward to answering any questions you might have.

Testimony of Rev. William H. Lamar IV
Pastor, Metropolitan AME Church
Public Hearing before the Committee on the Judiciary on
B21-0683 "Comprehensive Youth Justice Amendment Act of 2016"
Thursday June 2, 2016
John A. Wilson Building
1350 Pennsylvania Avenue NW
Washington, DC

Mr. Chairman, distinguished members of the council, fellow citizens of the District of Columbia, good morning to you all. Thank you for this opportunity. My name is William H. Lamar IV. I am the pastor of Metropolitan African Methodist Episcopal Church, located at 1518 M Street Northwest. We worship, liberate, and serve from the longest continuously held piece of property by persons of African descent in the District of Columbia.

We would like to commend Councilmember McDuffie for introducing this important legislation and thank those councilmembers who co-introduced and co-sponsored it. We support this legislation as a step towards reforming the failed juvenile and criminal justice policies and practices of the past and present.

It is critical as we examine this proposed legislation that we clearly understand that the failed punitive policies that created the problem of mass incarceration are founded on three central fallacies.

First, our approach to "justice" in the District is driven by the false notion that public safety is a zero sum game – that one person's safety is mutually exclusive with another person's liberty. And more specifically, it has been that the false belief that the white man's safety is mutually exclusively with the black man's liberty and that the rich man's safety is mutually exclusive with the poor man's liberty. The truth, however, is that the District would be safer and more just *for everyone* if we invested meaningfully in the least of these instead of locking them out of sight. This bill seeks to undo a number of the District's ineffective, overly punitive policies – the over-detention of low risk youth, mandatory minimums for youth younger than 18, and juvenile life without parole.

Second, our approach to "justice" in the District is driven by the false notion that the commission of a crime is most often the result of a deliberate individual choice indicative of corrupt character, rather than an act arising thoughtlessly and spontaneously out of a lack of choice, a lack of opportunity, and a lack of hope. Let me be clear – I am not excusing or justifying the decision to rob or harm anyone. But let's not pretend that the youth's decision to commit a crime has not been preceded by a lifetime *deprived* of choice. That youth did not choose to be born into poverty; did not choose to be born into segregation; did not choose to attend schools that did not teach him or her to read or write; did not choose to be discriminated against, denied jobs, and denied opportunity. The truth is that, but for the grace of God go all of us. Given a real choice, I have little

doubt that our children would prefer to work, achieve and excel in a meaningful opportunity rather than commit crimes.

It is true that a youth who commits a crime needs to be held accountable, needs to learn right from wrong. Sin rarely exists without consequences; but those consequences are accompanied by grace from God. Our justice system, however, is long on accountability, and short on grace. The passage of this bill would help the District move in a direction that better balances accountability and retribution with rehabilitation, redemption, and restoration.

Third, our approach to "justice" in the District is driven by too narrow a definition of what it means to be a victim. We know that most, if not nearly all, of the youth who become system-involved were victims themselves far before they became "offenders." They are victims of trauma. They are victims of crime. And they are victims of our indifference and our misplaced priorities. We must understand that the biblical commandment "Thou shall not kill" is much broader than just the death of the physical body. It also commands us not to kill the souls of our fellow brothers and sisters – not to kill their potential, their hope, their future. So we too must understand that we have played a role in the decisions and the plight of our youth. The truth is that we share a level of responsibility for the pain and suffering they experienced before they ever caused others to suffer through crime and delinquency.

I have no doubt that you will hear a lot today about the reasons why this bill is supported by the scientific research, the evidence of what works and what doesn't, and the trends of the steps being taken by other jurisdictions. Let me give you one more reason to pass this legislation – it is the right thing to do. It may not be easy; it may not be expedient; but it is right. We cannot continue to perpetuate the failed policies of the past because it would inconvenience us to change course now. These proposed reforms are a step in the right direction. We applaud the introduction of this bill, support it's passage, and look forward to working with you to continue reforming the juvenile and criminal justice systems in the District of Columbia. Thank you.

Testimony of Kristin N. Henning
Agnes N. Williams Research Professor of Law
Director, Georgetown Juvenile Justice Initiative
Public Hearing before the Committee on the Judiciary on
B21-0683 "Comprehensive Youth Justice Amendment Act of 2016"
Thursday June 2, 2016
John A. Wilson Building
1350 Pennsylvania Avenue NW
Washington, DC

My name is Kristin Henning, and I am the Agnes N. Williams Research Professor of Law and the Director of the Georgetown Juvenile Justice Initiative. I have worked for over 20 years with youth and their families in the District of Columbia as a public defender and clinical professor. Thank you for the opportunity to testify here today.

I commend Councilmember McDuffie for introducing this important legislation, which takes significant steps toward reforming the District's juvenile justice system. I support the legislation and, in particular, praise the provisions that would restrict the use of solitary confinement and shackling with youth; reduce the use of secure detention for low-risk youth; and prohibit youth from being detained or incarcerated in an adult facility. In addition, I recommend that the bill include technical amendments to the District's record-sealing statutes to extend the ability to seal records to youth who are arrested but never charged.

A. Legislating the Humane Treatment of Youth

The bill correctly demands the humane treatment of youth in secure facilities by restricting the use of solitary confinement. This proposal to restrict the use of solitary confinement aligns with a national consensus that youth should not be subjected to this harmful practice. This year, the United States Department of Justice issued a report and recommendations concerning the use of restrictive housing, concluding that "[j]uveniles should not be placed in restrictive housing" except only briefly in "very rare situations."[1] Following the issuance of the report, President Obama announced that he was adopting the recommendation of the report pertaining to juveniles and issued an executive action banning the use of solitary confinement for juveniles in Bureau of Prisons facilities.[2] Obama recognized that "Research suggests that solitary confinement has the potential to lead to devastating, lasting psychological

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[1] United States Department of Justice Report and Recommendations Concerning the Use of Restrictive Housing: Final Report, January 2016, at 101, *available at* https://www.justice.gov/dag/file/815551/download ("In very rare situations, a juvenile may be separated from others as a temporary response to behavior that poses a serious and immediate risk of physical harm to any person. Even in such cases, the placement should be brief, designed as a 'cool down' period, and done only in consultation with a mental health professional.")

[2] President Barack Obama, *Why We Must Rethink Solitary Confinement*, Washington Post, Jan. 25, 2016, available at https://www.washingtonpost.com/opinions/barack-obama-why-we-must-rethink-solitary-confinement/2016/01/25/29a361f2-c384-11e5-8965-0607e0e265ce_story.htmlconfinement/2016/01/25/29a361f2-c384-11e5-8965-0607e0e265ce_story.html; Juliet Eilperin, *Obama Bans Solitary Confinement for Juveniles in Federal Prison*, Washington Post, Jan. 26, 2016, *available at* https://www.washingtonpost.com/politics/obama-bans-solitary-confinement-for-juveniles-in-federal-prisons/2016/01/25/056e14b2-c3a2-11e5-9693-933a4d31bcc8_story.html

consequences...It has been linked to depression, alienation, withdrawal, a reduced ability to interact with others and the potential for violent behavior. Some studies indicate that it can worsen existing mental illnesses and even trigger new ones."[3] The solitary confinement of youth while incarcerated in adult and juvenile facilities is not necessary for the safety of the facility, can cause substantial psychological damage to the still developing mind of the youth, and increases the likelihood of recidivism upon release, making our communities less safe. This practice needs to be barred by legislation except in very rare circumstances.

B. Reduction in the Use of Secure Detention of Low-Risk Youth

We applaud the proposed legislation's goal of reducing secure detention for low-risk youth by strengthening the presumptions against pretrial detention and eliminating the rebuttable presumption of detention for children who have committed certain offenses. Currently, far too many low-risk youth are detained for compliance issues rather than because they are dangerous to themselves or the community, or a flight risk. Research, however, demonstrates that youth incarceration increases, rather than lessens, recidivism[4] and decreases the likelihood that the youth will complete high school or be gainfully employed.[5] Thus, the practice of detaining low-risk youth not only makes our District less safe over the long run, but also harms the future education and employment prospects of youth. Simply put, the incarceration of low-risk youth is counterproductive, and this proposed legislation would make positive changes to curb this practice.

Importantly, this bill not only seeks to reduce the counterproductive detention of youth, but also seeks to expand and strengthen the community-based services that are offered to our youth in the system. For instance, the victim-offender mediation program seeks to expand diversion programs that are often more effective in curbing recidivism.[6] Additionally, the bill empowers District agencies to evaluate the efficacy of diversion programs and other services offered to court-involved youth in order to ensure that the programs the District uses are as effective as possible. The bill also requires the District to collect data and assess the root causes of juvenile crime in order to guide the District in its efforts to prevent delinquency from occurring in the first place. In contrast to the incarceration of low-risk youth, if executed well, these proposals will not only make our District safer, but also further the development of the youth.

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[3] *New York Times*, "Obama Bans Solitary Confinement of Juveniles in Federal Prison.," *available at* http://www.nytimes.com/2016/01/26/us/politics/obama-bans-solitary-confinement-of-juveniles-in-federal-prisons.html.

[4] JUSTICE POLICY INSTITUTE, STICKER SHOCK: CALCULATING THE FULL PRICE TAG FOR YOUTH INCARCERATION 21-23 (2014); Edward P. Mulvey et. al., *Trajectories of Desistance and Continuity in Antisocial Behavior Following Court Adjudication Among Serious Adolescent Offenders*, 22 *DEV. & PSYCHOPATHOLOGY 453 (2010)*.

[5] Aizer, A., J. Doyle, *Juvenile Incarceration, Human Capital and Future Crime: Evidence from Randomly-Assigned Judges*, National Bureau of Economics Research Working Paper No. 19102, 2013, available at http://www.nber.org/papers/w19102.

[6] Holly Wilson & Robert Hoge, *The Effect of Youth Diversion Programs on Recidivism: A Meta-Analytic Review*, 40 CRIM. JUSTICE & BEHAVIOR 497 (2012).

C. Housing and Treatment of Youth Charged as Adults

The Bill prohibits placing youth under 18 in adult facilities and will transfer all youth from adult facilities to youth facilities, starting in October 2018. We applaud this amendment to the D.C. Code because the Central Treatment Facility is not equipped to provide the physical plant and services that youth need for positive development, such as education, exercise, visitation with family, and pro-social interactions with positive role models. In contrast, requiring youth charged as adults to be housed in age-appropriate facilities until they turn 18 will allow them access to youth-focused treatment methods and rehabilitative services, interaction with specially trained staff, and programming specifically tailored to their needs.

While these reforms are excellent steps toward treating young people in the most appropriate, rehabilitative settings, we need the bill to go further. The bill does nothing to curb the transfer of youth to the adult criminal justice system in the first place. The U.S. Attorney – a federal prosecutor not accountable to DC residents – still has unfettered discretion to charge 16- and 17-year olds, who commit certain enumerated crimes, as adults, and there is no judicial oversight of this decision. The D.C. Code's allowance of unrestrained prosecutorial discretion to charge youth as adults runs afoul of the research showing that transferring youth to the adult criminal justice system increases rather than reduces recidivism, especially among violent offenders.[7] An OJJDP report noted that transfer laws are ineffective at deterring youth from committing crime.[8]

Additionally, across the nation, states are changing their policies governing the prosecution of youth as adults. Nearly half of the states have reverse transfer mechanisms and fifteen states have recently reformed their transfer laws, making it more likely that youth will be tried in the juvenile justice system.[9] D.C., on the other hand, places certain juveniles directly and irrevocably in adult court, and does not allow for a judge to consider relevant factors about a child before subjecting them to prosecution and sentencing in the criminal justice system. Unlike many other jurisdictions, there is no hearing or reverse mechanism for youth to attempt to get back into juvenile court.[10] Additionally, between 2005 and 2014, eleven states passed laws limiting the housing of youth in adult jails, and five states have raised the age of their juvenile court jurisdiction, thereby reducing the number of youth automatically tried as adults.[11] Twelve

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[7] OJJDP, JUVENILE TRANSFER LAWS: AN EFFECTIVE DETERRENT TO DELINQUENCY? 6 (2010) (summarizing 6 large-scale studies on the deterrent effect of transfer to the adult system, all finding higher recidivism rates among offenders who had been transferred to criminal court rather than kept in the juvenile justice system. This was the case especially amongst violent offenders, finding that transfer to adult court promoted a "life-course of criminality").

[8] OJJDP Report at 26. (quarterman).

[9] Capital City Corrections. For example, the Maryland State Legislature recently passed legislation that would permit more youth to request transfer of their cases from adult to juvenile court. Id.

[10] www.ncsl.org

[11] Id.

states have changed their sentencing laws to take into account the developmental differences between youth and adults.[12]

Based on the research and national norms trending away from transfer laws, we propose that D.C. eliminate direct file, or at the very least, legislate a mechanism to allow for reverse waiver of youth charged as adults.

D. Amendments to Expand Record Sealing for Juveniles Who Were Not Charged

Sealing juvenile records is a way to ensure that young people receive a genuine chance at success in society once they have proven their ability to live a law-abiding lifestyle. In amending D.C. Code § 16-2335, the D.C. Council specifically recognized that the juvenile justice system should serve in a rehabilitative capacity and keeping records confidential is central to that purpose.[13] The Council noted that "revealing law enforcement information for every juvenile offender would wrongly penalize youth who become productive members of society."[14] As such, the Council instituted a mechanism for youth to seal their record if the individual has gone two years without being adjudicated delinquent, in need of services, or convicted as an adult.

However, since the passage of the statute, I have discovered a number of ways the sealing records statute could be improved to achieve the Council's original purpose—giving juveniles a genuine chance at succeeding in society after involvement in the juvenile justice system.

First, D.C. Code § 16-2335 has a major flaw because it allows youth who have been arrested and charged with a delinquent act to seal their record if certain requirements are met but makes no similar allowance for youth who have been arrested but **not charged** with a delinquent act. Based on the purpose and legislative history of the statute, it appears that this omission was unintentional. Moreover, it would inequitable – and a manifest injustice - for a youth who was charged and convicted to be able to seal his record while a youth who was arrested but never charged cannot seal his records.[15] I understand that the Attorney General will propose statutory language to resolve this issue. I have seen the language and I support their recommendation.

Second, the current sealing records statute is triggered when a person files a motion to seal (or the Family Court chooses to act on its own motion). Requiring the person whose record must be sealed to file a motion has been a major barrier to records sealing. Young people are rarely aware of the sealing records statute and often lack the skills and support to file such a motion. For this reason, making the sealing of juvenile records automatic once certain requirements are met would go a long way to ensure that the records would be sealed for deserving young people.

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[12] *See State Trends: Updates from the 2013-2014 Legislative Session*, Campaign for Youth Justice, 2-3 (September 12, 2014), http://www.campaignforyouthjustice.org/research/cfyj-reports?task=callelement&format=raw&item_id=1359&element=8475c1d7-7f51-4167-b6da-88d5df4f43eb&method=download&args[0]=0.

[13] D.C. Council, Comm. on Pub. Safety and the Judiciary Report on Bill 18-344 at 7 (June 29, 2010).

[14] *Id.*

[15] *See District of Columbia v. Hudson*, 404 A.2d 175 (D.C. App. 1979).

Third, the current version of the sealing record statute only seals the last case that a person has on their record, but leaves all previous cases and arrests on the books. For individuals to have a genuine chance at success and reintegration, a person who has gone for two years after their final discharge from the juvenile justice system without being re-adjudicated or convicted should be able to have their *entire* juvenile record sealed. The record may still be re-opened if the person is subsequently adjudicated delinquent, in need of supervision, or convicted of a felony as an adult.

Conclusion

I, alongside with my colleagues and other juvenile justice advocates, are very pleased with the Council's goals to reduce the use of secure detention for low-risk youth; to restrict the use of solitary confinement; and to remove youth from being detained in any adult facility. We believe these changes are essential to both public safety and the success of young people who have been involved in the juvenile justice system. We also believe that more can be done to affect positive outcomes in our community and among the District's young people. We hope the Council will take action to end, or at least limit, the practice of charging youth as adults, and include a provision to improve juvenile record sealing.

Thank you for your significant efforts to reform juvenile justice in the District and I look forward to working with Council in the future to make these goals a reality.

Testimony of R. Daniel Okonkwo
Executive Director, DC Lawyers for Youth
Public Hearing before the Committee on the Judiciary on
B21-0683 "Comprehensive Youth Justice Amendment Act of 2016"
Thursday June 2, 2016
John A. Wilson Building
1350 Pennsylvania Avenue NW
Washington, DC

Good afternoon Chairman McDuffie and members of the Committee on the Judiciary. My name is Daniel Okonkwo, and I am the Executive Director of DC Lawyers for Youth (DCLY) – a non-profit action tank focused on using data, research, evidence, and our experience to improve DC's juvenile justice system. Thank you for the opportunity to testify today.

For far too long, the District of Columbia has relied primarily on a reactive approach to punishing crime rather than a proactive approach to preventing crime from happening in the first place. Starting with the NEAR Act and continuing with this proposed legislation, the District of Columbia is beginning to shift its focus from responding to acting, from doing what feels good to doing what works. We commend you, Councilmember McDuffie, for leading this effort to create an evidence-based, public health approach to crime prevention in the District. We support your efforts; we support the passage of the Comprehensive Youth Justice Amendment Act of 2016; and we would like to provide a few additional suggestions as to how the proposed legislation can be improved.

I. YOUTH TRIED AS ADULTS

Housing

Research has consistently found that trying and housing youth in the adult system neither deters youth from committing serious crimes nor prevents them from reoffending in the future; indeed, there is compelling evidence that it actually increases recidivism among those who are processed through it.[1] In contrast, the research demonstrates that youth are less likely to re-offend and more likely to succeed in school and the workplace if they receive comprehensive services that support positive youth development.[2]

However, adult facilities are generally ill-equipped to provide the comprehensive services that youth need for positive development, such as education, exercise, and pro-social interactions with positive role models.[3] From their physical plant to their staff training, adult facilities are not designed for children. Compared to their peers in juvenile facilities, youth in adult facilities report that the staff members are less supportive in helping them achieve their goals, learn new skills, and improve their personal relationships.[4] Adult facilities also generally provide weaker education services than do juvenile facilities, a critical weakness given the importance of education for adolescents' future prospects.[5]

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[1] Robert Hahn et al., "Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System," at http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5609a1.htm; Elizabeth Drake, The

[2] Jeffrey A. Butts, Gordon Bazemore, and Aundra Saa Meroe, *Positive Youth Justice: Framing Justice Interventions Using the Concepts of Positive Youth Development* (Washington, DC: Coalition for Juvenile Justice, 2010), http://johnjayresearch.org/wp-content/uploads/2011/07/pyj2010.pdf; Ashley Nellis and Richard Hooks Wayman, *Back on Track: Supporting Youth Reentry from Out-of-Home Placement to the Community* (Washington, DC: The Youth Reentry Task Force of the Juvenile Justice and Delinquency Prevention Coalition, 2009), http://www.sentencingproject.org/doc/publications/CC_youthreentryfall09report.pdf.

[3] *Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America* (Campaign for Youth Justice, November 2007), http://www.campaignforyouthjustice.org/documents/CFYJNR_JailingJuveniles.pdf.

[4] Jennifer L. Woolard et al., "Juveniles Within Adult Correctional Settings: Legal Pathways and Developmental Considerations," *International Journal of Forensic Mental Health* 4, no. 1 (2005): 15.

[5] *Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America*, 7.

The Correctional Treatment Facility (CTF) in DC is no exception and has a long history of similar deficiencies. An independent evaluation of the Juvenile Unit at CTF that was completed in 2013 found that 1) the facility space is too limited to provide adequate programming or sufficient physical activity, 2) most youth are not able to have in-person visitation with their family members, 3) some staff working the unit are inadequately trained to address the needs of youth, and 4) the amount of structured programming offered to youth is inadequate.[6] Even though Director Faust, Fred Rogers, and the Department of Corrections should get be commended for their efforts to substantially improve the Juvenile Unit at CTF since the completion of this evaluation, no amount of improvement will make the Juvenile Unit at CTF an appropriate place to house youth because of the physical plant and logistical issues associated with the federal requirement of "sight and sound separation" that accompany housing youth in an adult facility.

Housing pretrial Title 16 youth at YSC would allow them to receive the age-appropriate treatment they cannot receive in the adult jail. They would interact with staff trained in youth development. They would have more frequent access to medical care, mental health treatment, family visits, and recreation. They would live in a space built for kids rather than one built for adults. Additionally, not all youth who are charged as adults are ultimately convicted or incarcerated post-conviction, which means they will soon return to our communities; therefore, the District has an interest in ensuring that these young people are housed in an environment that supports their development rather than at CTF, which has been found to be inadequate for that purpose. For these reasons, we support the prohibition on the detention of youth under the age of 18 in a penal institution or other facility for the detention of adults and urge the DC Council to adopt this provision and urge the Executive branch to implement the provision by housing pre-sentencing youth at the Youth Services Center and post-sentencing youth at New Beginnings.

There are some who may push back against this proposal and argue 1) that the youth at CTF are fundamentally different from the youth at YSC or 2) that YSC cannot accommodate the increased numbers associated with the influx of youth from CTF. I will address each in turn.

First, the youth currently at CTF are the same kids as those currently at YSC. They have the same developmental attributes, the same needs, and the same potential to change. Indeed, the Supreme Court, after examining neurological and psychological research concerning adolescent development, concluded multiple times that adolescents as a class share developmental characteristics like impulsivity, short-term orientation, immature emotional regulation, and a heightened capacity for change that categorically distinguish them from adults, make them less culpable, and make them less deserving of the most severe punishments.[7] These attributes do not change solely because a sixteen-year-old youth committed an armed robbery instead of a robbery or because a youth committed an armed robbery at sixteen years old and one week instead of at fifteen years old and three hundred and sixty days. The fact of the matter is that the youth at both facilities are the same youth.

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[6] Walter B. Ridley, Francis Mendez, and Ghia Ridley Pearson, *The District of Columbia Department of Corrections Correctional Treatment Facility Juvenile Unit Assessment.*

[7] *See* Miller v. Alabama, 132 S. Ct. 2455, 2468 (2012); Graham v. Florida, 560 U.S. 48, 68 (2010); Roper v. Simmons, 543 U.S. 551, 578 (2005).

Second, both YSC and New Beginnings should be able to accommodate the pre-sentencing and post-sentencing populations from CTF. New Beginnings was at 37 youth as of May 18, 2016, and has been undersubscribed since the beginning of 2014. New Beginnings currently has the space to accommodate the post-sentencing population from CTF.

At the Youth Services Center, the current population appears to be near capacity because of a recent increase in the use of detention rather than a recent increase in the number of youth coming into the formal juvenile justice system. Publicly available DYRS data shows that the average daily population at the Youth Services Center was an average of 73 youth per day – 11 of which were committed, not detained, youth – for calendar year 2015 and had no months where the average daily population was above its capacity of 88 youth. (See Table 1). For all of 2015, there would have been more than enough room at the Youth Services Center to accommodate the presentencing youth population from CTF.

Table 1. Average Daily Population – Youth Services Center[8]

Period	Average Daily Population (Detained Youth)	Average Daily Population (Overnight Youth)	Average Daily Population (Committed Youth)	Average Daily Population (All Youth)
January 2015	68.5	5.0	8.5	82.0
February 2015	66.9	4.6	9.8	81.3
March 2015	59.1	4.4	10.3	73.7
April 2015	59.7	4.1	11.2	75.0
May 2015	55.2	5.4	10.7	71.4
June 2015	52.2	4.5	17.6	74.4
July 2015	51.5	4.3	12.7	68.5
August 2015	52.1	3.7	8.7	64.4
September 2015	54.6	4.3	11.2	70.1
October 2015	59.3	4.3	12.0	75.6
November 2015	61.1	4.5	12.2	77.7
December 2015	51.3	4.8	6.2	62.3
January 2016	69.9	6.0	12.0	87.9
February 2016	70.2	5.5	10.6	86.3
March 2016	76.1	4.3	4.6	85.0
April 2016	74.4	5.4	6.7	86.5

However, in 2016, the average daily population at the Youth Services Center has increased to near capacity, likely for two reasons. (See Table 2 below). First, through the first four months of 2016, the average daily overnight population has nearly doubled, from 4.2 in 2015 to 7.9 in 2016. Let me be clear, for the most part, overnight youth are low-risk. These are primarily youth who are arrested and released the next day to their family after either having their case no papered or diverted, or being released home by a judge. These are youth that, for the most part, should not be detained in the first place. Second, it appears that, through the first four months of 2016, nearly 1.5 times as many youth are being detained on a daily basis than in 2015 (i.e., an increase from an average of 2.3 daily enrollments in 2015 to 3.5 daily enrollments in 2016). More research needs to be done to ascertain the reason for this increase in detention as well as whether there has been any increase in length of stay. However, reducing needless overnight

[8] Data downloaded from http://dyrs.dc.gov/page/youth-snapshot on June 1, 2016.

admissions, the detention of low and medium risk youth, and minimizing unnecessarily long length of stays will free up more than enough room at YSC to accommodate the pre-sentencing population from CTF. The accompanying pretrial detention reform provisions in this bill should help accomplish these goals.

Table 2. Average Daily Enrollment – Youth Services Center[9]

Period	Average Daily Enrollments (Detained Youth)	Average Daily Enrollments (Overnight Youth)	Average Daily Enrollments (Committed Youth)	Average Daily Enrollments (All Youth)
January 2015	2.6	4.8	0.8	8.2
February 2015	1.8	4.2	0.9	6.9
March 2015	2.0	4.0	0.9	6.9
April 2015	2.0	3.8	1.2	6.9
May 2015	1.5	5.2	1.1	7.7
June 2015	2.1	4.2	1.3	7.6
July 2015	2.4	4.1	1.1	7.6
August 2015	2.0	3.4	0.7	6.1
September 2015	3.4	4.1	0.7	8.2
October 2015	3.2	4.0	0.7	7.9
November 2015	2.6	4.1	0.8	7.5
December 2015	2.2	4.4	0.5	7.0
January 2016	3.8	5.5	0.9	10.3
February 2016	3.7	6.0	0.7	10.4
March 2016	2.7	9.0	0.4	12.1
April 2016	3.6	11.1	0.8	15.5

Due Process

Consistent with the findings and recommendations in our *Capital City Correction* report,[10] we support the inclusion of a mechanism for the reverse waiver of youth direct filed in adult court and the elimination of the "once an adult, always an adult" provisions for all youth with a case in adult court.

Instituting reverse waiver in DC is a sound policy decision. First, given the life-long consequences of being prosecuted in adult court, young people should be afforded the opportunity for an impartial judge to review the decision of the U.S. Attorney's Office to direct file a young person. There are tremendous long-term collateral consequences that result from prosecution in the adult system. Young people who have adult criminal records face life-long discrimination in employment, housing, and educational opportunities as well as having to live with the stigma of having been in the criminal justice system. These serious consequences should not rest solely on a prosecutor's decision.

Second, instituting a reverse waiver mechanism would empower an impartial judge to take into consideration a number of factors that the U.S. Attorney does not have access to or consider at the time they are making their charging decision. This bill would require judges to

[9] Data downloaded from http://dyrs.dc.gov/page/youth-snapshot on June 1, 2016.
[10] *See* A. Peerman & C. Daugherty, *Capital City Correction: Reforming DC's Use of Adult Incarceration Against Children* (2014), *available at* http://www.dcly.org/capital_city_correction.

consider many different factors related to that particular youth, not merely the criminal allegations against him or her. Judicial review of the charging decision would insure that only those young people who are appropriate for the adult criminal justice system are prosecuted in it.

While the DC Council may be concerned with possible Home Rule issues resulting from the addition of a reverse waiver mechanism in DC Code §16-2301, we strongly believe the law is on our side. First, Congress never invested the U.S. Attorney's Office with the power or authority to define who is a "child" under DC law. Instead, Congress used the U.S. Attorney's charging decision as a proxy for making that determination for itself. The definition of "child" is the type of quintessential legislative policy judgment that the Home Rule Act authorizes the DC Council to make. Second, the Home Rule Act only prohibits amendments to Title 11, while our reverse mechanism proposal would only amend Title 16. Indeed, a reverse waiver mechanism neither enlarges nor reduces the U.S. Attorney's power to file charges in adult court against the same categories of offenders identified by Congress. It merely empowers a judge to review that decision as required by due process. As a result, any collateral effects on Title 11 would be too indirect and inconsequential to violate the Home Rule Act.

Moreover, even if it hypothetically might violate Home Rule Act, this is a battle we should pick with Congress. The District went forward with its pursuit of budget autonomy even though it had possible Home Rule implications. What does it say about our District that we are willing to challenge Congress on our ability to manage our money, but not willing to challenge Congress on our ability to define childhood in the District of Columbia? This is the perfect issue to demonstrate the need to be free from Congressional oversight.

Reforming Sentencing of Youth Tried As Adults

We support both the end of mandatory minimums for youth who committed an offense while under the age of 18 and a prohibition on juvenile life without parole in the District of Columbia. In *Miller v. Alabama*, the Supreme Court extended its prohibition of the imposition of life without parole to apply to youth in homicide cases, concluding the following:

> [A] sentencer misses too much if he treats every child as an adult. To recap: Mandatory life without parole for a juvenile precludes consideration of his chronological age and its hallmark features—among them, immaturity, impetuosity, and failure to appreciate risks and consequences. It prevents taking into account the family and home environment that surrounds him—and from which he cannot usually extricate himself—no matter how brutal or dysfunctional. . . . And finally, this mandatory punishment disregards the possibility of rehabilitation even when the circumstances most suggest it.[11]

While the Supreme Court has not yet extended its logic to the use of mandatory minimums in cases involving youth, the same rationale holds. Courts should not treat youth as adults when it comes to sentencing. Instead, properly sentencing a youth requires a detailed, individualized examination of the age and maturity of the youth, the context in which the youth offended, and

[11] Miller v. Alabama, 132 S. Ct. 2455, 2468 (2012).

the youth's ability for rehabilitation. This cannot be accomplished in a meaningful way when the judge's hands are tied by mandatory minimums.

Moreover, while these Supreme Court cases are more recent, the differences between children and adults have always existed. As a result, we would propose that the Committee considered amending the proposed legislation to add a review process whereby youth who have already been sentenced to extreme sentences for an offense that occurred prior to their 18 birthday can have their sentences reviewed and reduced.

II. PRETRIAL DETENTION REFORM

Eliminating the Detention and Incarceration of Status Offenders

Nationally, there has been a movement to finally end the secure confinement of status offenders for any reason. In 1974, Congress passed the initial iteration of the Juvenile Justice and Delinquency Prevention Act (JJDPA). One of the key provisions of JJDPA – the Deinstitutionalization of Status Offenders (DSO) – prohibited the pretrial placement of youth charged as status offenders in secure facilities for states who received federal funds under the Act.[12] In 1980, JJDPA was amended to include a Valid Court Order (VCO) exception, which provided that adjudicated status offenders could be securely confined if they violated a valid court order.[13] The current iteration of the JJDPA that is before the Congress now would eliminate the VCO exception and prohibit the use of secure confinement for any status offender.[14] The elimination of the VCO exception is supported by the Coalition for Juvenile Justice[15] and the National Council of Juvenile and Family Court Judges.[16]

Currently, the District's statutory scheme neither prohibits the pre-disposition secure confinement of status offenders nor recognizes a valid court order exception for post-disposition youth. According to data from the Office of Juvenile Justice Delinquency and Delinquency Prevention, the District of Columbia used the VCO exception 24 times over the course of 72 petitioned PINS matters in 2010 and 73 times over the course of 316 petitioned PINS matters in 2011.[17] This is far too often. As a result, DC's statutory scheme and practice is out of step with both the letter of the law and spirit of JJDPA. For these reasons, DC should now amend its status offender statutory scheme to prohibit *entirely* the secure confinement of status offenders. As a result, the proposed legislation should be amended to also include provisions that would

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[12] *Use of the Valid Court Order Exception: A State by State Analysis*, Coalition for Juvenile Justice, available at http://www.juvjustice.org/sites/default/files/resource-files/State%20VCO%20usage%202.18.15.pdf.

[13] *See id.*

[14] Meyer & Rubenstein, Reducing Youth Confinement Key to Proposed JJDPA Reauthorization, Vera Institute, Jan. 8, 2015, *available at* http://www.vera.org/blog/reducing-youth-confinement-key-proposed-jjdpa-reauthorization.

[15] *See National Standards for the Care of Youth Charged with Status Offenses*, Coalition for Juvenile Justice, Standard 3.8 (2015), *available at* http://juvjustice.org/sites/default/files/resource-files/National%20Standards%202015%20WEB.pdf.

[16] National Council of Juvenile and Family Court Judges, *Resolution Supporting Reauthorization of JJDP Act and Elimination of VCO Exception*, Mar. 14, 2010, *available at* http://www.ncjfcj.org/sites/default/files/vcoresolution3-10.pdf.

[17] *See* http://www.ojjdp.gov/compliance/FY2013-FY%202014VCO-state.pdf. This is the most recently reported data. *Compare with* Family Court, Annual Report to Congress for 2010 & 2011, available at http://www.dccourts.gov/internet/about/orgperf/annualreports.jsf.

eliminate the secure detention of status offenders after they have been adjudicated and gone to disposition.

Reducing the Detention of Low-Risk Youth

We support the proposed amendments to DC Code § 16-2310. As stated *supra*, recent data appears to demonstrate that the number of low risk youth being detained at the Youth Services Center has increased over the last few months. Such a practice runs contrary to public safety as research demonstrates that the incarceration of low risk youth actually makes it more likely that the youth will recidivate.[18] Moreover, for most youth, the most effective manner of rehabilitating the youth is through evidenced-based, therapeutic, community-based services.[19] As a result, secure detention should be the last resort and only used when the youth poses a significant danger to the community or is a flight risk.

Please note that, while we support the amendments to DC Code § 16-2310, the language of DC Code § 16-2310(b) may have to change slightly to accommodate the use of shelter care in the neglect system.

III. MODERNIZING CONFIDENTIALITY & IMPROVING RECORD SEALING

Confidentiality:

We support the proposed changes to DC Code §§ 16-2331, 2332, and 2333. First, we support providing authorized personnel at the Office of the Attorney General access to juvenile case records and law enforcement records for the purpose of monitoring recidivism and efficacy of not only diversion programs, but also other programs providing services to youth in the delinquency system (i.e., Core Services Agencies, mentoring programs, etc.). Such authorization will provide much needed transparency as well as the opportunity to better manage the performance of those organizations responsible for providing services to youth diverted from or involved in the delinquency system.

Second, while we support expanding the access to juvenile case records and law enforcement records for the purposes of evaluating programs serving youth in the juvenile justice system, we also support narrowing the parties with access to this information and the narrowing the records that can be accessed. Specifically, there is no need for the District of Columbia Public Schools to have access to these records for either the purposes of providing services or evaluating diversion programs. Moreover, to the extent some information may need to be disclosed to a teacher or school official in furtherance of the protection or rehabilitation of the child, such information already can be disclosed, subject to certain protections, under DC law. *See* DC Code § 16-2333.01. Additionally, to the extent that a probation officer or social worker

[18] Edward P. Mulvey et al., *Trajectories of Desistance and Continuity in Antisocial Behavior Following Court Adjudication Among Serious Adolescent Offenders*, 22 *DEV. & PSYCHOPATHOLOGY 453* (2010), *available at* http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2908904/pdf/nihms207059.pdf.

[19] Lipsey, Mark W., "The Primary Factors that Characterize Effective Interventions with Juvenile Offenders: A Meta-Analytic Overview," *Victims & Offenders*, Vol. 4, No. 2, 2009, *available at* http://www.tandfonline.com/doi/abs/10.1080/15564880802612573.

needs information about the youth from the school itself, the youth can grant access to such information through the use of a release.

Records Sealing

Any discussion of comprehensive youth justice reform must ensure that youth have a real opportunity to move past the mistakes they made during their adolescent years by enabling them to seal their juvenile records. While DC Code § 16-2335 provides a mechanism for sealing records, there are number of gaps in the statute that should be address in the current legislation.

First, DC Code § 16-2335 should empower youth who were arrested but not charged with a delinquent act to seal their juvenile records. We understand that the Attorney General will propose statutory language to resolve this issue. We have seen the language and support their recommendation.

Second, DC Code § 16-2335 should be amended to require the automatic sealing of juvenile records automatic once certain requirements are met instead of requiring an affirmative act by the youth or the Court.

Third, DC Code § 16-2335 should allow a person who has met all the conditions to have their record sealed to seal their *entire* juvenile record, not just the last offense. The entire record could still be re-opened if the person is subsequently adjudicated delinquent, in need of supervision, or convicted of a felony as an adult, but it is important that a youth who stays out of trouble have the opportunity to wipe the slate clean.

IV. HUMANE TREATMENT

Solitary Confinement

In January 2016, the United States Department of Justice issued a report and recommendations concerning the use of restrictive housing. With regard to juveniles, the report concluded that "[j]uveniles should not be placed in restrictive housing."[20] The report continued, finding that "[i]n very rare situations, a juvenile may be separated from others as a temporary response to behavior that poses a serious and immediate risk of physical harm to any person. Even in such cases, the placement should be brief, designed as a 'cool down' period, and done only in consultation with a mental health professional."[21] Following the issuance of the report, President Obama announced that he was adopting the recommendation of the report pertaining to juveniles and issued an executive action banning the use of solitary confinement for juveniles in Bureau of Prisons facilities.[22] The District of Columbia should follow the President's lead and

[20] United States Department of Justice Report and Recommendations Concerning the Use of Restrictive Housing: Final Report, January 2016, at 101, *available at* https://www.justice.gov/dag/file/815551/download.
[21] *See id.*
[22] President Barack Obama, *Why We Must Rethink Solitary Confinement*, Washington Post, Jan. 25, 2016, available at https://www.washingtonpost.com/opinions/barack-obama-why-we-must-rethink-solitary-confinement/2016/01/25/29a361f2-c384-11e5-8965-0607e0e265ce_story.html; Juliet Eilperin, *Obama Bans Solitary Confinement for Juveniles in Federal Prison*, Washington Post, Jan. 26, 2016, *available at*

outright ban the use of solitary confinement for juveniles in all District facilities. As a result, we support the proposals in the legislation that would bring the District's policy in line with the President's executive action and best practices in the field.[23] While we believe that this needs to be legislated, we are open to some changes to these provisions of the bill to ensure it is not unduly burdensome so long the use of room confinement is used rarely, safely, and in a transparent manner.

Shackling

We support the amendments to DC Code 2-1515.52 that would expand the protections against unnecessary shackling to youth.

V. System Improvements

Restorative Justice

We support the creation of a voluntary victim-offender mediation program administered by the Office of the Attorney General as an alternative to prosecution for youth.

Data Collection & Analysis

We support the requirement that an analysis of the root causes of delinquency be conducted on a regular basis. We are open to changes to this provision of the statute to ensure that such an analysis is done correctly and with all the information necessary for its completion.

VI. Special Immigrant Juvenile Status

We support the amendment of DC Code 16-2301 to expand the definition of a child to include an unmarried person under the age of twenty-one on behalf of whom a motion is filed for Special Immigrant Juvenile factual findings, requesting a determination that the person was abused, neglected, or abandoned for purposes of section 101(a)(27)(J) of the Federal Immigration and Nationality Act.

VII. Constructive Notice

We support the amendment of DC Code 13-336(a) to allow for publication as a substitute for personal service of process upon a defendant who cannot be found after diligent efforts or who by concealment seeks to avoid the service of process, or against the unknown heirs or devisees of deceased persons.

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https://www.washingtonpost.com/politics/obama-bans-solitary-confinement-for-juveniles-in-federal-prisons/2016/01/25/056e14b2-c3a2-11e5-9693-933a4d31bcc8_story.html

[23] *Summary of National Standards Restricting the Solitary Confinement of Youth*, American Civil Liberties Union, https://www.aclu.org/files/assets/5%202%20National%20Standards%20Restricting%20the%20Solitary%20Confinement%20of%20Youth.pdf

VIII. COMMON SENSE DISPOSITION REFORM

We also suggest that this bill include an amendment that changes the current community service requirement for young people sentenced to probation. While completing community service may be a legitimate rehabilitative mechanism in some or even most cases, the current statutory scheme, which requires the court to order 90 hours of community service in all probation cases of youth 14 to 18 year old regardless of the offense, circumstances of the case, or needs of the child, must be better aligned with the overall statutory goals of the juvenile justice system and the mandate that these goals be pursued in the least restrictive manner.

First, requiring that 90 hours of community service be ordered in every probation case regardless of its nexus to the circumstances of the individual case or the likelihood that community service will further rehabilitation actually runs counter to rehabilitation. Often, requiring 90 hours of community service takes up time that would otherwise be spent on therapy, tutoring, mentoring, or other services that are more likely to contribute to rehabilitation. Our proposal below recognizes this reality, granting judges the authority to order up to 25 hours of community service but giving judges the discretion to balance the amount of community service required with the other conditions of release.

Second, the current statutory scheme is unrealistic. The statutory scheme specified 90 hours as the threshold requirement for community service as it was the number of hours that students were required to complete over the course of four years in order to graduate from high school. While high school students had four years to complete these hours, youth on probation are expected to complete these hours in a year or less in addition to complying with all the other services put in place by the court. This unrealistic goal, coupled with the difficulty in finding meaningful community service opportunities for youth in the District, means that youth are often scrambling or unable to fulfill this requirement, exposing them to a possible revocation of their probation.

Third, the current statute is inconsistent in its applicability. Under the current statutory scheme, judges must order community services for children placed on probation but cannot order it for children who are committed.

Fourth, the current statute also goes against the least restrictive mandate of the juvenile justice system. Essentially, 90 hours of community service can act as a gating factor in terms of the length of probation ordered. For instance, if a probation officer is recommending three months probation as the least restrictive disposition in a case, the judge is often reluctant to order such a period of probation because it is unlikely that 90 hours of community service can be completed in such a short time. As a result, the statutory community service requirement impedes the imposition of the least restrictive disposition.

We recommend that DC Code § 16-2320 be amended in the following manner:

(c-1) The Division ~~shall~~ may order any child between the ages of 14 and 18 years who is found to be delinquent ~~or in need of supervision~~ to perform ~~a minimum of~~ up to ~~90~~ 25 hours of

community service with an agency of the District government or a non-profit or community service organization in accordance with section 24-904(a).

IX. CONCLUSION

Councilmember McDuffie, the Comprehensive Youth Justice Amendment Act provides critical reforms to the District's juvenile justice system. These reforms will not only align the District with nationwide trends and research on youth development, but it will also make us a national leader in youth justice. This bill also has broad-based community support, which is illustrated by the more than 50 local and national organizations who signed onto a letter of support for this Act. We urge the Council to consider and add our suggested amendments and pass this legislation. Thank you and I look forward to answering any questions the Committee may have.

Supplemental Testimony of R. Daniel Okonkwo
Executive Director, DC Lawyers for Youth
Public Hearing before the Committee on the Judiciary on
B21-0683 "Comprehensive Youth Justice Amendment Act of 2016"
Thursday June 2, 2016
John A. Wilson Building
1350 Pennsylvania Avenue NW
Washington, DC

Based on the testimony presented at the Committee on the Judiciary and Public Safety's public oversight hearing on Bill 21-0683, "the Comprehensive Youth Justice Amendment Act of 2016," DC Lawyers for Youth respectfully submits the below supplemental testimony. The supplemental testimony details DC Lawyers for Youth's position regarding a number of possible amendments proposed at the hearing and addresses some of positions taken by the government witnesses.

I. YOUTH TRIED AS ADULTS

Housing:

At the public hearing on Bill 21-0683, DYRS Director Lacey testified that Title XVI youth would have to be separated by sight and sound from youth in the delinquency system if detained in the same facility. Director Lacey was misinformed regarding the requirements for sight and sound separation. In 2008, the Office of Juvenile Justice and Delinquency Prevention provided guidance to the state directors of juvenile justice agencies regarding the placement of youth charged as adults in juvenile facilities.[1] The administrator of OJJDP explained "that no individual who reaches the age of full criminal responsibility only after arrest or conviction will be understood to be an 'adult inmate' within the meaning of the Act until he reaches the state's maximum age of extended juvenile jurisdiction."[2] The administrator concluded that "[t]he result is that the continued placement of a member of the TCW [transferred, certified, or waived] population in a juvenile facility, not to exceed the state's maximum age of extended juvenile jurisdiction [which is 21 in DC], does not constitute a sight and sound separation requirement violation."[3] Thus, the sight and sound separation requirement would not be required if Title XVI youth were placed at YSC and does not pose a barrier to the passage of this Bill 21-0683.

Additionally, Director Lacey testified that he had concerns regarding the increase in the YSC population that would result from absorbing the population of Title XVI youth and the impact such an increase would have on the District's exit from the Jerry M Consent Decree. While Director Lacey's concerns about population are valid to a certain extent, with the proper coordination and collaboration among stakeholders in the juvenile justice system, Title XVI youth can be placed at YSC and the population can be managed so that overcrowding does not occur. Population management will best be accomplished by pursuing the following goals: 1) reducing the number of detained overnight youth who are classified as being low risk; 2) removing committed youth from YSC; 3) reducing the number of low and medium risk youth detained pretrial; 4) ensuring speedy placement in shelter homes; and 5) ensuring the speedy trial statute is complied with to the greatest extent possible. These goals can be accomplished through smart changes in policy – some of which are included in this legislation – and changes in practice on the ground.

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[1] *See* Memorandum from J. Robert Flores, Administrator, OJJDP, to State Agency Directors, et. al., re Compliance with section 223(a)(12) (Separation Requirement) of the Juvenile Justice and Delinquency Prevention Act of 2002 (Aug. 18, 2008) [ATTACHMENT A].

[2] *See id.* at 1.

[3] *See id.* at 1-2.

Due Process:

As I testified, it is our opinion that the Home Rule Act does not prohibit the D.C. Council from amending DC Code 16-2301 to provide an opportunity for a judge to waive a Title XVI youth's case down to juvenile court. First, Congress never invested the U.S. Attorney's Office with the power or authority to define who is a "child" under DC law. Instead, Congress used the U.S. Attorney's charging decision as a proxy for making that determination for itself. The definition of "child" is the type of quintessential legislative policy judgment that the Home Rule Act authorizes the DC Council to make. Second, the Home Rule Act only prohibits amendments to Title 11, while our reverse mechanism proposal would only amend Title 16. Indeed, a reverse waiver mechanism neither enlarges nor reduces the U.S. Attorney's power to file charges in adult court against the same categories of offenders identified by Congress. It merely empowers a judge to review that decision as required by due process. As a result, any collateral effects on Title 11 would be too indirect and inconsequential to violate the Home Rule Act. I have attached a memorandum from outside legal counsel that analyzed the issue in the context of the previously introduced Youth Offender Accountability and Rehabilitation Act of 2014.[4]

II. REVIEW OF LONG SENTENCES OF YOUTH

A number confined individuals, formerly confined individuals, and family members of confined individuals testified at the hearing requesting that some relief be provided to individuals who received extremely long sentences as a result of already having been tried and convicted as an adult while still a youth. We support providing such relief and stand ready to assist the committee in creating a process whereby youth serving long sentences have the opportunity for a review and reduction of their sentences.

III. REMOVAL OF RISK TO SELF

Laura Hankins from the Public Defender Service proposed that DC Code § 16-2310(a) be amended not only to make clear that secure detention is to be used to protect the person or property of others *from significant harm* but also to prohibit the use of secure detention solely because of risk of harm *to the child.* We support Ms. Hankins' proposal and agree with her analysis. We should not be securely detaining youth because they are at risk of victimization, either at the hands of others or themselves. If they are at risk of self-harm, then they should be provided with the services, supports, or hospitalization necessary in order to remedy the risk. If the youth is at the risk of harm by others, then placement in a non-secure, alternative placement like shelter care, respite, or foster care is sufficient. Secure detention is simply not appropriate in these instances.

[4] Memorandum from Hellings, et. al, Hogan Lovells, to Ms. Daugherty, Campaign for Youth Justice, re D.C. Home Rule and Youth Offender Accountability and Rehabilitation Act of 2014 (Dec. 10, 2014) [ATTACHMENT B].

IV. SHACKLING

We support the proposal by the Office of the Attorney General and the Public Defenders Service to adopt the new administrative order on the use of restraints – Administrative Order 16-09 – into the legislation.[5]

V. MANDATORY ARREST AND DOMESTIC VIOLENCE DIVERSION

We support the Office of the Attorney General's proposal to amend the domestic violence mandatory arrest provision to permit pre-arrest diversion into an appropriate program. The research demonstrates that most youth who commit domestic battery against a parent or sibling are low-risk youth who are not likely to reoffend if provided with the correct interventions. These interventions, however, do not involve formal processing through the juvenile justice system.[6] As such, for most youth who are accused of domestic battery, diversion is the appropriate response.

VI. RECORD SEALING REFORM

We support the proposal by the Office of the Attorney General to amend the record sealing statute to provide for the sealing of no paper cases. We also support amendments that would require the automatic sealing of juvenile records automatic once certain requirements are met and would allow a person who has met all the conditions to have their record sealed to seal their *entire* juvenile record, not just the last offense.

VII. ELIMINATION OF THE USE OF SECURE DETENTION OF STATUS OFFENDERS

We disagree with the Office of the Attorney General's position that the statute should not be amended to prohibit the secure detention of status offenders because of the lack of community-based alternatives for those youth. We should both prohibit the secure detention of status offenders and create the community-based alternatives to serve youth. We cannot lock up youth because we as adults have failed to create the alternatives necessary.

VIII. COMMON SENSE DISPOSITION REFORM

While completing community service may be a legitimate rehabilitative mechanism in some or even most cases, the current statutory scheme, which requires the court to order 90 hours of community service in all probation cases of youth 14 to 18 year old regardless of the offense, circumstances of the case, or needs of the child, needs to better aligned with the overall statutory goals of the juvenile justice system and the mandate that these goals be pursued in the least restrictive manner.

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[5] Administrative Order 16-09, Individual Determinations for the Use of Restraints on Respondents [ATTACHMENT C].

[6] Models for Change, Adolescent Domestic Battery Typology Tool Manual (2013) [ATTACHMENT D].

First, requiring that 90 hours of community service be ordered in every probation case regardless of its nexus to the circumstances of the individual case or the likelihood that community service will further rehabilitation. Indeed, often, requiring 90 hours of community services can run counter to rehabilitation as the time spent on community service is time that would otherwise be spent on therapy, tutoring, mentoring, or other services that are more likely to contribute to rehabilitation. The proposal below recognizes this reality, granting judges the authority to order up to 25 hours of community service but giving judges the discretion to balance the amount of community service required with the other conditions of release.

Second, the current statutory scheme is unrealistic. The statutory scheme specified 90 hours as the threshold requirement for community service as it was the number of hours that students were required to complete over the course of four years in order to graduate from high school. While high school students had four years to complete these hours, youth on probation are expected to complete these hours in a year or less in addition to complying with all the other services put in place by the court. This unrealistic goal, coupled with the difficulty in finding meaningful community service opportunities for youth in the District, means that youth are often scrambling or unable to fulfill this requirement, exposing them to a possible revocation of their probation.

Third, the current statute is inconsistent in its applicability. Under the current statutory scheme, judges must order community services for children placed on probation but cannot order it for children who are committed.

Fourth, the current statute also goes against the least restrictive mandate of the juvenile justice system. Essentially, 90 hours of community service can act as a gating factor in terms of the length of probation ordered. For instance, if a probation officer is recommending three months probation as the least restrictive disposition in a case, the judge is often reluctant to order such a period of probation because it is unlikely that 90 hours of community service can be completed in such a short time. As a result, the statutory community service requirement impedes the imposition of the least restrictive disposition.

We recommend that DC Code § 16-2320 be amended in the following manner:

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U.S. Department of Justice

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

Office of the Administrator

Washington, D.C. 20531

MEMORANDUM

AUG 18 2008

TO: State Agency Directors
Juvenile Justice Specialists
State Advisory Group Chairs

FROM: J. Robert Flores
Administrator, OJJDP

SUBJECT: Compliance with section 223(a)(12) (Separation Requirement) of the Juvenile Justice and Delinquency Prevention Act of 2002

Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act ("JJDPA"), 42 U.S.C. § 5633(a)(12) ("Separation Requirement"), requires states to ensure that no juvenile is "detained or confined in any institution in which they have contact with adult inmates." State compliance with this provision is a key requirement to qualify for JJDPA Part B formula funds. Failure to comply results in the imposition of funding penalties authorized by Section 223(c)(1) of the JJDPA.

On October 30, 2003, the Office of Juvenile Justice and Delinquency Prevention ("OJJDP") provided guidance ("Guidance") to states regarding compliance with the Separation Requirement, specifically with respect to juveniles transferred, certified or waived into the adult criminal justice system, while detained in juvenile facilities. Stated another way, these are juvenile offenders who age into adulthood after having committed offenses and after having been taken into custody as juveniles ("TCW population"). The Guidance directed states to separate members of the TCW population, from the juvenile populations in juvenile facilities. Recognizing that compliance with the Guidance may have required state law, policy and practice changes, OJJDP allowed states a period of six months to develop plans for accomplishing separation between the juvenile and adult (including TCW) populations, and an additional two years for plan implementation.

Based on genuine issues of concern raised by the states, I sought legal guidance, from within the Department, regarding permissible interpretations of the JJDPA definition of "adult inmate," as that term is used in the Separation Requirement, as well as the scope of my discretionary authority as Administrator of OJJDP. Based upon the guidance received, I believe it to be within my discretion to determine, as I have now done, that no individual who reaches the age of full criminal responsibility only *after* arrest or conviction will be understood to be an "adult inmate" within the meaning of the Act until he reaches the state's maximum age of extended juvenile jurisdiction. The result is that the continued placement of a member of the TCW population in a juvenile facility, not to exceed the state's maximum age of extended juvenile jurisdiction, does not constitute a sight and

sound separation requirement violation. This decision provides states the maximum flexibility allowed under the Act regarding the placement of members of the TCW population. I have every confidence that states will continue their work to ensure that the TCW population does not jeopardize the safety of or interfere with the rehabilitative opportunities of youth under the original jurisdiction of the juvenile justice system.

As always, I commend states on their efforts to ensure that youth within the juvenile justice systems, while held accountable for their actions, continue to be detained in a safe environment when necessary, while awaiting reintegration into their communities.

Should you have any further questions, please contact your OJJDP/SRAD State Representative at 202/307-5924.

Hogan Lovells

MEMORANDUM

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TO Carmen Daugherty **ORGANIZATION** Campaign for Youth Justice

FROM Katie Hellings
Joel Buckman
Jason Z. Qu*

DATE December 10, 2014

Privileged and Confidential
By Electronic Mail

SUBJECT D.C. Home Rule and Youth Offender Accountability and Rehabilitation Act of 2014

ISSUE

BRIEF ANSWER

LEGAL BACKGROUND

I. **JURISDICTION OF THE D.C. COURTS**

II. **PROSECUTORIAL AUTHORITY OF THE USAO IN D.C**

III. **THE HRA AND RELEVANT LIMITATIONS**

ANALYSIS

I. **REVERSE TRANSFER PROPOSAL**
- **A. "Reverse Transfer" Would not Violate the USAO Limitation**
  1. Changing the Definition of a "Child" Under Title 16 Would Not Implicate a "Duty or Power" of the USAO, as Contemplated by the HRA
  2. "Direct File" Reflects a Legislative Judgment about who is a "Child" under D.C. Law and is not a Duty or Power of the USAO
- **B. Reverse Transfer" Would not Violate the Title 11 Limitation**
  1. The Reverse Transfer Proposal Would Not Amend Any Provision of Title 11, As Required by the Title 11 Limitation
  2. The Title 11 Limitation Allows the D.C. Council to Enact Reforms that have Indirect Effects upon the Jurisdiction of the D.C. Courts

II. **ELIMINATING "ALWAYS AN ADULT" PROPOSAL**
- **A. Eliminating "Always an Adult" Would not Violate the USAO Limitation**
  1. The "Always an Adult" Rule does not Implicate a Duty or Power of the USAO
  2. Any Effect on the USAO's Power and Authority is Too Tangential to Violate the USAO Limitation
- **B. Eliminating "Always an Adult" Would not Violate the Title 11 Limitation**

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ISSUE

I. Reverse Transfer: Campaign for Youth Justice has developed legislation[1] that would seek to create a "reverse transfer" procedure for so-called "direct-file" juvenile offenders in D.C. Superior Court (the "Reverse Transfer Proposal") by amending the definition of "child" in Title 16 of the D.C. Code. May the D.C. Council adopt the legislation consistent with the Home Rule Act's ("HRA") limitations on its authority: (a) to enact legislation that "relates to" the "duties or powers" of the United States Attorney's Office for the District of Columbia ("USAO") (the "USAO Limitation"); and (b) to enact legislation with respect to Title 11 of the D.C. Code (the "Title 11 Limitation")?

II. Always an Adult: Campaign for Youth Justice has developed legislation that will eliminate the "once an adult, always an adult" rule (the "Always an Adult Rule") for juvenile offenders convicted in criminal court by amending Title 16 of the D.C. Code. May the D.C. Council adopt the legislation consistent with (a) the USAO Limitation and (b) the Title 11 Limitation?

BRIEF ANSWER

I. Reverse Transfer: It appears so. (a) Congress never invested the USAO with the power or authority to define who is a "child" under D.C. law. Instead, Congress used the USAO's charging decision as a proxy for making that determination for itself. The definition of "child" is a quintessential legislative judgment that the HRA authorizes the D.C. Council to amend. (b) The Title 11 Limitation only prohibits amendments to Title 11, while the Reverse Transfer Proposal would only amend Title 16. Any collateral effects on Title 11 would be too indirect and inconsequential to violate the HRA.

II. Always an Adult: It appears so. (a) The Always an Adult Rule reflects Congress' determination that minors transferred to and convicted in criminal court are categorically unsuited for the District's juvenile justice system. There seems to be no indication that Congress had the powers or duties of the USAO in mind when it made this legislative determination, and the D.C. Council would seem free to find otherwise under the HRA. (b) Amending the Always an Adult Rule would only change a provision of Title 16 and would have no effect on any part of Title 11. Furthermore, eliminating this rule would not seem to change the jurisdictional scheme for the Family Division as set out in Title 11.

LEGAL BACKGROUND

The following statutory provisions are referenced throughout this memorandum:

I. JURISDICTION OF THE D.C. COURTS

D.C. Code Title 11: Congress consolidated the D.C. trial courts into a single entity, the D.C Superior Court, in 1970 as part of the D.C. Court Reorganization Act ("DCCRA").[2] DCCRA divided the Superior Court into five Divisions—Civil, Criminal, Family, Probate, and Tax—and defined the jurisdiction of each division. Title 11 of the D.C. Code codifies this basic jurisdictional scheme.

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1 This analysis is based on The Youth Offender Accountability and Rehabilitation Act of 2014; subsequent references to how the proposals would change the law are based on the changes proposed in such act.

2 Pub. L. No. 91-358, 84 Stat. 473.

Title 11 gives the D.C. Superior Court jurisdiction over "any criminal case under any law applicable exclusively to the District of Columbia."[3] This effectively means that all crimes created by the D.C. Code are prosecuted in the Superior Court, by default in the Criminal Division. At the same time, Title 11 gives the Family Division original and exclusive jurisdiction over "proceedings in which a child, as defined in § 16-2301, is alleged to be delinquent, neglected, or in need of supervision."[4] A "delinquent act" is defined as "an act designated as an offense under the law of the District of Columbia, or of a State if the act occurred in a State, or under Federal law."[5] These provisions effectively transform all criminal proceedings against a "child" into delinquency proceedings within the exclusive jurisdiction of the Family Division.

D.C. Code Title 16: Title 16 of the D.C. Code contains the definition of a "child" used throughout the Code. Title 16 defines a "child" as anyone under the age of 18, except that 16 and 17–year olds are not "children" if they have been charged by the USAO with murder, first degree sexual abuse, first degree burglary, armed robbery, or assault with the intent to commit any of those offenses. These "non-children" become automatically and irrevocably subject to the Criminal Division as adults rather than the Family Division as juvenile delinquents. Because the filing of a predicate offense by the USAO effectively removes a child from the Family Division's jurisdiction, such children are colloquially said to have been "direct filed" by the USAO into the Criminal Division.

II. PROSECUTORIAL AUTHORITY OF THE USAO IN D.C.

28 U.S.C. § 547: Congress defined the duties and powers of the USAO in 28 U.S.C. § 547. That provision reads:

> Except as otherwise provided by law, each United States attorney, within his district, shall—
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> **(1)** prosecute for all offenses against the United States;
> **(2)** prosecute or defend, for the Government, all civil actions, suits or proceedings in which the United States is concerned;
> **(3)** appear in behalf of the defendants in all civil actions, suits or proceedings pending in his district against collectors, or other officers of the revenue or customs for any act done by them or for the recovery of any money exacted by or paid to these officers, and by them paid into the Treasury;
> **(4)** institute and prosecute proceedings for the collection of fines, penalties, and forfeitures incurred for violation of any revenue law, unless satisfied on investigation that justice does not require the proceedings; and
> **(5)** make such reports as the Attorney General may direct.

3 D.C. Code § 11–923(a).
4 D.C. Code § 11–101(a)(13).
5 D.C. Code § 16-2301(7).

D.C. Code Title 23: As part of DCCRA, Congress refined and expanded these statutory duties and powers in the District of Columbia. Title 23 of the D.C. Code clarifies that the USAO has exclusive authority to prosecute in the name of the United States all serious misdemeanors and all felonies created by D.C. law, along with all federal crimes.[6] The Office of the Attorney General for the District of Columbia is tasked with prosecuting all remaining offenses.

III. THE HRA AND RELEVANT LIMITATIONS

The HRA states that "the legislative power of the District shall extend to all rightful subjects of legislation within the District consistent with the Constitution of the United States."[7] This broad grant of legislative authority is subject to limitations created by Congress, including those contained within sections 601, 602, and 603 of the HRA itself. Section 602 of the HRA creates 10 specific limitations on the D.C. Council's legislative powers. The two most relevant limitations are:

HRA § 602(a)(8): The D.C. Council is unable to "enact any act or regulation relating to the United States District Court for the District of Columbia or any other court of the United States in the District other than the District courts, or relating to the duties or powers of the United States Attorney or the United States Marshal for the District of Columbia."

HRA § 602(a)(4): The D.C. Council is unable to "enact any act, resolution, or rule with respect to any provision of title 11 of the District of Columbia Code (relating to organization and jurisdiction of the District of Columbia courts)."

ANALYSIS

I. REVERSE TRANSFER PROPOSAL

Currently, the definition of a "child" under Title 16 categorically excludes any minor charged by the USAO with a predicate offense. Campaign for Youth Justice seeks to change this so-called "direct file" process by amending this definition of "child." Under the revised definition, a 16–18 year old charged with a predicate offense can be reclassified as a child if a Superior Court Criminal Division Judge finds that there are "reasonable prospects for rehabilitating the defendant prior to his majority." The judge must also find that such a "reverse transfer" to the Family Division would be in the public interest.

A. "Reverse Transfer" Would Not Violate USAO Limitation

The HRA's "USAO Limitation" prohibits the D.C. Council from enacting legislation "relating to" the duties or powers of the USAO. The Reverse Transfer Proposal would not seem to violate this limitation because it would not relate to any power or authority of the USAO under Title 23 of the D.C. Code. Rather, the D.C. Council would merely redefine "child" under the substantive juvenile justice system in Title 16, which the HRA authorizes the D.C. Council to do. That redefinition would

6 See D.C. Code § 23-101; In re Crawley, 978 A.2d 608 (D.C. 2009).

7 District of Columbia Self-Government and Governmental Reorganization Act, Dec. 24, 1973, 87 Stat. 784, Pub. L. 93-198, title III, § 302.

not alter any statutory power or duty of the USAO; just as now, the USAO would have exclusive authority to prosecute predicate offenses whether in juvenile delinquency or criminal proceedings.

In October 22, 2014 testimony, Senior Assistant Attorney General Dave Rosenthal of the D.C. Office of the Attorney General ("OAG") argued that the Reverse Transfer Proposal would violate the USAO Limitation by "limit[ing] the authority of the United States Attorney to determine who is not a child and to prosecute through to sentencing persons charged as adults under Title 16."[8] That view seems to hinge on an overbroad interpretation of the "powers and duties" of the USAO and to misapprehend Congress' intent when it created the so-called direct-file process.

1. Changing the Definition of a "Child" Under Title 16 Would Not Implicate a "Duty or Power" of the USAO, as Contemplated by the HRA

(a) *The D.C. Council is Empowered to Pass Juvenile Justice and Criminal Justice Reforms by the HRA, So Long as the USAO's Core Prosecutorial Powers are Not Compromised*

The USAO has traditionally had broad prosecutorial authority in D.C., including the power to prosecute felonies and serious crimes created by D.C. law. Congress sought to preserve the USAO's authority to prosecute these serious crimes when it passed the HRA—amid calls for a local prosecutor—even as it granted the D.C. Council legislative authority to amend the substantive criminal and procedural law in Titles 22 and 23 of the D.C. Code.[9] Congress therefore enacted the USAO Limitation, which prohibits the D.C. Council from abrogating the USAO's century-old role as chief prosecutor in the exercise of its new legislative powers.

A broad interpretation of the USAO Limitation would undercut the D.C. Council's ability to enact many criminal and juvenile justice reforms. In his October 22, 2014 testimony, OAG's representative advanced such an expansive interpretation: "The plain language of section §602(a)(8) . . . suggests in the broadest possible terms that the Council lacks the authority to enact legislation that would affect the powers of the United States Attorney."[10] A narrower interpretation, however, is necessary for the D.C. Council to exercise properly the legislative authority it was given in the HRA.

Indeed, OAG's representative acknowledged that the USAO Limitation was "not absolute" since the D.C. Council has "successfully enacted legislation to amend the District's criminal procedure laws," meaning that the D.C. Council "has some authority to enact legislation that might impact the United States Attorney" notwithstanding the USAO Limitation.[11] He cited amendments impacting the "powers of investigators assigned to USAO and the use of child witness' testimony,"[12] along with amendments to the criminal statute of limitations.[13] Another example of a procedural reform would be the evidentiary rules governing sexual assault trials passed by the D.C. Council in 1995.[14] Changes to the substantive criminal law, too, would "affect" the powers of the USAO, since

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8 B20-825, The Youth Offender Accountability and Rehabilitation Act of 2014, Hearing before the Committee on the Judiciary and Public Safety, Council for the District of Columbia, at 4 (October 22, 2014) (statement of Dave Rosenthal, Senior Assistant Attorney General, District of Columbia Office of the Attorney General).

9 See District of Columbia Self-Government and Governmental Reorganization Act, Dec. 24, 1973, 87 Stat. 784, Pub. L. 93-198, title III, § 302; Crawley, 987 A.2d at 618.

10 Statement of David Rosenthal, supra note 8, at 6.

11 Id.

12 Id.

13 See Anti-Terrorism Act of 2002, D.C. Law 14-194; District of Columbia Criminal Statute of Limitations Act of 1982, Apr. 30, 1982, D.C. Law 4-104.

14 See Anti-Sexual Abuse Act of 1994, May 23, 1995, D.C. Law 10-257.

these changes would expand or contract the ability of the USAO to prosecute entire classes of offenses.[15] All of these examples imply that the D.C. Council has broad authority to affect how, and even whether, the USAO exercises its prosecutorial authority in the District without violating the USAO Limitation, provided that the USAO retains its historic role as chief prosecutor.

Anticipating this argument, OAG's representative contended:

> It must be noted that in those instances where the Council has enacted legislation that impacts in some manner the prosecution of offenses in the District of Columbia, those laws do not single out the United States Attorney, or amend laws that expressly relate to that agency. Rather, . . . they apply neutrally to whomever is the prosecuting entity.[16]

The fact that these other criminal reforms did not "single out" or affect laws that "expressly relate" to the USAO is a weak distinction. Since the USAO has exclusive statutory jurisdiction over the prosecution of all felonies and serious misdemeanors in the District, any laws affecting those crimes passed by the D.C. Council necessarily affect the USAO exclusively. And as a practical matter, the examples listed above had a much more direct and significant impact on the USAO than the Reverse Transfer Proposal would. Whereas these examples affected the USAO's ability to prosecute in the first instance, reverse transfer would still permit the USAO to prosecute all of the predicate offenses (albeit in Family Court).

The few cases in which courts have struck down an act of the D.C. Council in light of the USAO Limitation confirm that the legislative interference must be direct and significant. For example, in Crawly,[17] the D.C. Council passed a false claims statute that, per Title 23, should have been within the sole prosecutorial sphere of the USAO; however, the D.C. Council explicitly assigned OAG as the prosecutor under the act. The act thus both undermined USAO's express duty to "prosecute" under 28 U.S.C. § 547 and encroached upon the division of prosecutorial authority created in Title 23. That is why the D.C. Court of Appeals struck down the statute.

(b) The Reverse Transfer Proposal Would Not Regulate a Formal Duty or Power of the USAO, Including its Power to Prosecute Serious Crimes

Unlike the kind of law that was struck down in Crawley, the proposed reverse transfer mechanism would not undermine the USAO's prosecutorial authority. The USAO will still be able to bring and prosecute all serious felonies in D.C. Superior Court. Furthermore, the USAO will retain the ability to "direct file" qualifying juvenile offenders initially in the Criminal Division—the reverse transfer mechanism would only give "direct file" offenders the option of petitioning for transfer to the Family Division, and then only upon approval of the Criminal Division judge. And even after a successful transfer, the USAO would still pursue its prosecution in the Family Division and obtain a conviction therein. Any effects on the USAO stemming from the reverse transfer mechanism would thus seem to fall short of the legislative interference needed to violate the HRA's USAO Limitation.

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15 See, e.g., Prohibition Against Human Trafficking Amendment Act of 2010, 23 October 2010, D.C. Law 18-239; Elimination of Outdated Crimes Amendment Act of 2003, Apr. 29, 2004, D.C. Law 15-154; Anti-Sexual Abuse Act of 1994, May 23, 1995, D.C. Law 10-257.

16 Statement of David Rosenthal, supra note 8, at 9.

17 978 A.2d 608 (D.C. 2009).

2. "Direct File" Reflects a Legislative Judgment about who is a "Child" under D.C. Law and is not a Duty or Power of the USAO

Statutory structure, legislative history, and cases reveal that the so-called "direct file" process created by § 16-2301(3)(a) does not itself create a duty or power of the USAO. Rather, "direct file" reflects Congress's legislative judgment as to what kind of "children" properly belong in the juvenile justice system. Congress gave the D.C. Council authority to amend that judgment with the HRA.

(a) The Statutory Text and Structure of Title 16 Demonstrates that "Direct File" is about Defining "Child," and not Expanding the Duties or Powers of the USAO

The ability to "direct file" minors is not a discrete mechanism or process within the D.C. code, but is instead a byproduct of Title 16's definitional provisions. The definition of "child" in § 16-2301(3)(a) excludes individuals 16–18 charged with a predicate offense by the USAO, thereby removing that minor from the Family Division and the juvenile justice system. The text of § 16-2301(3)(a) itself does not contain a direct, explicit grant of authority to the USAO to decide or control where juvenile cases are heard.

The testimony from OAG's representative cites Brown v. United States, 343 A.2d 48 (D.C. 1975), for the proposition that § 16-2301(3)(a) granted the USAO "unfettered discretion"[18] to "decid[e] whether to charge a juvenile as an adult."[19] But the text and context of § 16-2301(3)(a) shows that this discretion is largely illusory. Of course the USAO has discretion over whether to bring a predicate charge, but that charging discretion is grounded in its authority to bring and prosecute felonies in the District generally. In other words, § 16-2301(3)(a) merely piggy-backs off of the USAO's already-existing authority to bring felony charges. The USAO's unquestioned authority to bring and prosecute one of the triggering charges is not itself grounded in the "direct file" provision and would not be affected by creating a reverse transfer process.

Further, any de facto discretion on the USAO's part to determine where a minor is prosecuted is indirect and derived from its statutory charging discretion. If the USAO does *not* bring one of the enumerated charges, then it cannot independently choose to prosecute a minor in the Criminal Division; furthermore, the USAO cannot decide to bring one of the enumerated charges but then choose to keep that case *in* the Family Division. These two scenarios show that the so-called "direct file" mechanism does not actually give the USAO "unfettered discretion" in its choice of judicial venue. As a textual and functional matter, the USAO's discretion under § 16-2301(3)(a) is restricted to its already-existing prosecutorial authority and discretion.

(b) The Legislative History and Judicial Interpretations of Title 16 Demonstrate that "Direct File" was about Implementing Congress' Policy Judgments about D.C.'s Juvenile Justice System, and Not about Empowering the USAO

Interpreting § 16-2301(3)(a) as creating a neutral statutory mechanism for assigning juvenile offenders to either the juvenile justice or criminal divisions, and not as endowing the USAO with new "duties or powers" per se, finds further support in the legislative history of the DCCRA and cases. The DCCRA created the definition of child that enables the direct-file process. The pertinent DCCRA House Report describes the purpose of the "direct file" process:

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18 Statement of Dave Rosenthal, supra note 8, at 8.
19 Brown v. United States, 343 A.2d 48, 50 (D.C. 1975).

> Because of the great increase in the number of serious felonies committed by juveniles and because of the substantial difficulties in transferring juvenile offenders charged with serious felonies to the jurisdiction of the adult court under present law, *provisions are made in this subchapter for a better mechanism for separation of the violent youthful offender and recidivist from the rest of the juvenile community.*[20]

The Senate Report, describing the recidivism trends of "direct file" offenders, further elaborated:

> The Committee has concluded that a juvenile can reliably be considered too well formed or sophisticated for, and beyond the reach of, mere juvenile therapy if the particular juvenile has already been exposed, in years of relative discretion, to the juvenile system and treated to the extent that his case required (as suggested by a prior finding of delinquency), *and has nevertheless returned to serious misconduct (as suggested by a serious felony charge).*[21]

The D.C. Circuit further explained in 1972:

> The legislative history accompanying 16 D.C. Code § 2301 reveals Congress' intent in enacting this legislation: To improve the operation of the juvenile justice system in the District of Columbia by removing from its jurisdiction certain individuals between the ages of 16 and 18 whom Congress concluded (1) were beyond rehabilitation in the juvenile justice system, and (2) whose presence in that system served as a negative influence on other juveniles. *This represents a policy judgment of Congress, after gathering extensive appropriate evidence, as to how persons should be classified as "adult" and "child" for the purposes of rehabilitation following the commission of a criminal offense.*[22]

And finally, the D.C. Court of Appeals has found that:

> [T]e overriding concern of Congress [in enacting § 16-2301(3)(a)] was to remove both the first-time "violent youthful offender and the recidivist" (age 16 and older) from the juvenile treatment system altogether [in] a measure designed primarily to protect "the rest of the juvenile community" in detention.[23]

These authorities distill to a basic principle: Congress did not vest the USAO with authority to decide who is a child for purposes of the juvenile justice system, but instead exercised its own legislative authority to define "child" to exclude certain individuals charged by the USAO with a predicate offense. In other words, Congress used the USAO's charging decision as a proxy for

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20 H.R. Rep. No. 907, 91st Cong., 2d Sess. 50 (1970).
21 S.Rep. No. 620, 91st Cong., 1st Sess. 8-9 (1969).
22 United States v. Bland, 472 F.2d 1329, 1332 (D.C. Cir. 1972).
23 In re C.S., 384 A.2d 407, 409 (D.C. 1977); see also id. at 409 ("We conclude . . . that § 16-2301(3)(A), by deeming an individual not to be a "child" when certain serious offenses are charged, in effect has decreed, by operation of law, a "transfer" of that individual to the Criminal Division.").

rehabilitative potential across-the-board—for Congress, the USAO's charging decision was an objective indication that an offender is no longer suited for the juvenile justice system. The above authorities do not speak to the USAO's power or authority, except implicitly by referring to its pre-existing authority to charge a predicate offense. Nor is there any suggestion that the USAO should consider rehabilitative potential or other policy factors when making a charging decision.

In summary, the notion that direct file endowed the USAO with additional "duties or powers" and enhanced, "unfettered" prosecutorial discretion seems to misunderstand the DCCRA, its function, and its history. While the USAO's charging discretion is instrumental in determining whether an offender is a "child" for purposes of the juvenile justice system, Congress did no more than incorporate into that legislative definition the USAO's preexisting power to charge a predicate offense. Because the proposed reverse transfer mechanism would not "relate to" a discrete duty or power of the USAO established by Title 16, that proposal would not seem to violate the HRA's USAO Limitation.

B. "Reverse Transfer" Would Not Violate the Title 11 Limitation

The Title 11 Limitation prohibits the D.C. Council from enacting "any act, resolution, or rule with respect to Title 11 (relating to organization and jurisdiction of the District of Columbia courts)."[24] OAG's representative suggested that the creation of the reverse transfer mechanism would "impermissibly expand the Family Court's jurisdiction to include children that have been explicitly carved out of the Family Court's jurisdiction by the Congress through Title 11."[25] However, it is actually a provision of Title 16—not Title 11—which effectively excludes some children from the Family Court's jurisdiction. The Title 11 Limitation does not bar amendments of Title 16. Furthermore, courts have refused to find a violation of the Title 11 Limitation when the D.C. Council has only indirectly or insignificantly affected the jurisdictional scheme set out in Title 11. The reverse transfer provision's jurisdictional effects appear too insignificant to trigger the Title 11 Limitation.

1. The Reverse Transfer Proposal Would Not Amend Any Provision of Title 11, As Required by the Title 11 Limitation

By its plain language, the Title 11 Limitation prohibits amendments to Title 11, not other statutory changes that have some effect on the organization and jurisdiction of the D.C. courts. Indeed, the Title 11 Limitation's parenthetical reference to the "organization and jurisdiction of the District of Columbia courts" only describes the subject matter of Title 11. This parenthetical does not provide a basis to prohibit other statutory changes outside Title 11.

The Reverse Transfer Proposal would not affect any part of Title 11. It would be codified in Title 16 in part by amending the definition of "child" and in part by creating the "reverse transfer" procedure. And though Title 11 cross references Title 16's definition of a child,[26] Title 16's definition is still separate and distinct. Congress could have chosen to insulate the definition of "child" from further modification by locating that definition within Title 11, especially if Congress concluded that a particular definition was crucial for setting the Family Division's jurisdiction. Congress chose not to do so. Instead, in the DCCRA Congress cross-referenced Title 16's definition of "child" with no further qualifications or reservations, and then gave the D.C. Council broad legislative authority to

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24 D.C. Code § 602(a)(4).

25 Statement of Dave Rosenthal, supra note 8, at 11.

26 Specifically, D.C. Code § 11–101(a)(13) gives the Family Division jurisdiction over "proceedings in which a child, as defined in § 16-2301, is alleged to be delinquent, neglected, or in need of supervision. D.C. Code § 11–101(a)(13).

amend the provisions of Title 16 when it enacted the HRA.[27] Thus, the Reverse Transfer Proposal would not seem to trigger the Title 11 Limitation by regulating any provisions of that Title.

2. The Title 11 Limitation Allows the D.C. Council to Enact Reforms that have Indirect Effects upon the Jurisdiction of the D.C. Courts

Even if a court were to interpret the phrase "with respect to Title 11" to encompass amendments outside the four corners of Title 11, the Reverse Transfer Proposal would fail to affect the kind of jurisdictional changes prohibited by the Title 11 Limitation. The D.C. Courts have concluded that the Title 11 Limitation prohibits changes to the "core functions"[28] of the D.C. courts as a whole, or attempts to enlarge "the congressionally prescribed limitations on [the D.C. courts'] jurisdiction."[29] The D.C. courts have rejected wooden readings of the Title 11 Limitation which would prohibit any legislative action even indirectly affecting their jurisdiction. For example, the D.C. Court of Appeals noted in 2013 that: "Although the foreclosure of a cause of action can certainly be said to affect the jurisdiction of the courts in a sense, both this court and the United States Court of Appeals for the District of Columbia Circuit have held that analogous changes to the substantive law are not precluded by the Home Rule Act." [30] Similarly, the Reverse Transfer Proposal would not impermissibly "change the manner in which [T]itle 11 operates to prescribe the jurisdiction of the courts in administering"[31] the District's laws. Title 11 would continue to limit the Family Division's delinquency jurisdiction to "children" as defined in Title 16. The basic jurisdictional scheme would thus remain the same.

II. ELIMINATING "ALWAYS AN ADULT" PROPOSAL

The Always an Adult Rule reads:

> Transfer of a child for criminal prosecution terminates the jurisdiction of the [Family] Division over the child with respect to any subsequent delinquent act; except that jurisdiction of the Division over the child is restored if (1) the criminal prosecution is terminated other than by a plea of guilty, a verdict of guilty, or a verdict of not guilty by reason of insanity, and (2) at the time of the termination of the criminal prosecution no indictment or information has been filed for criminal prosecution for an offense alleged to have been committed by the child subsequent to transfer.[32]

A "transfer" in this context has been interpreted to include the reclassification of a child as a "non-child" by operation of § 16-2301(3)(a)'s "direct file" provision.[33]

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27 See District of Columbia Self-Government and Governmental Reorganization Act, Dec. 24, 1973, 87 Stat. 784, Pub. L. 93-198, title III, § 302.
28 See Bergman v. District of Columbia, 986 A.2d 1208, 1230 (D.C. 2010).
29 See Jones & Artis Construction Co. v. D.C. Contract Appeals Bd., 549 A.2d 315, 318 (D.C. 1988).
30 Coleman v. D.C., 80 A.3d 1028, 1036 (D.C. 2013) (citing Dimond v. District of Columbia, 792 F.2d 179, 189–90 (1986); District of Columbia v. Sullivan, 436 A.2d 364, 365–68 (D.C.1981); Umana v. Swidler & Berlin, Chtd., 669 A.2d 717, 724 n. 15 (D.C.1995)).
31 See Umana v. Swidler & Berlin, Chtd., 669 A.2d 717, 724 n. 15 (D.C.1995).
32 D.C. Code § 16-2307(h).
33 See In re C.S., 384 A.2d 407 (D.C. 1977).

The Always an Adult Rule permanently keeps a minor out of the juvenile justice system once he or she has been transferred to and convicted in criminal court, even in subsequent delinquency proceedings where that minor would otherwise be subject to the juvenile justice system. The Campaign for Youth Justice proposes to reverse this rule by amending the provision to read: "Transfer of a child for criminal prosecution shall not terminate the jurisdiction of the Family Court over the child with respect to any subsequent delinquency petitions . . ."

A. Eliminating "Always an Adult" Would not Violate the USAO Limitation

1. The "Always an Adult" Rule does not Implicate a Duty or Power of the USAO

OAG's representative contended without elaboration that eliminating the Always an Adult Rule "would deprive USAO of a duty or power to prosecute [affected minors] in violation of the Home Rule Act."[34] However, for the same reasons discussed in part I.A, supra, the Always an Adult Rule does not establish discrete duties or powers on the part of the USAO.

In addition, the text of the Always an Adult Rule makes no mention of the USAO. The Always an Adult Rule is found at the end of a distinct Title 16 provision, § 16-2307, devoted solely to the process of transferring one of OAG's juvenile delinquency cases from Family Court to the Criminal Division on motion.[35] To grant OAG's transfer motion under § 16-2307, the Family Court judge must find that transfer is "in the interest of the public welfare and protection of the public security and there are no reasonable prospects for rehabilitation of the child."[36] The judge must consider evidence of the child's past delinquency record, rehabilitative potential, the severity of the pending criminal charges, and other factors when considering whether to send a child to criminal court. In enacting the Always an Adult Rule, Congress relieved OAG from having to re-litigate this kind of transfer in subsequent juvenile proceedings involving the same child, but only if OAG successfully obtained a criminal conviction in the first case.

Congress did not appear to have the USAO in mind when it enacted the Always an Adult Rule. The USAO does not play any role in the § 16-2307 transfer process, and the USAO's so-called "direct file" process does not in any way resemble an OAG transfer under § 16-2307. The question of whether "direct file" cases trigger the Always an Adult Rule at all had to be decided by the D.C. Court of Appeals in In re C.S.[37] In that case, the court found that applying Always an Adult to direct file cases would serve Congress' "overriding purpose" of keeping problematic defendants out of the juvenile justice system.[38] The court did not find that the Rule concerned the duties or powers of the USAO itself. Indeed, it found that the placement of "direct file" minors in adult court was "an effective legislative determination"[39] on the part of Congress, not an expansion of the USAO's discretion.

There are additional reasons to doubt that Congress wanted to expand the powers or duties of the USAO when it enacted the Always an Adult Rule. For one, the Always an Adult Rule terminates the Family Court's jurisdiction only on conviction of a first offense. The USAO's charging decision is thus not itself determinative. Moreover, once triggered, the Always an Adult Rule operates automatically and regardless of the USAO's consent, meaning that the USAO cannot choose to bring subsequent proceedings in Family Court. These attributes suggest a broader policy preoccupation with keeping "bad apples" out of the juvenile justice system akin to the policy goal

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34 Statement of Dave Rosenthal, supra note 8, at 10.
35 See D.C. Code § 16-2307(h).
36 D.C. Code § 16-2307(h).
37 384 A.2d 407 (D.C. 1977).
38 Id. at 411.
39 Id.

underlying the "direct file" mechanism, and not a desire to expand the USAO's own discretion or authority.[40]

2. Any Effect on the USAO's Power and Authority is Too Tangential to Violate the USAO Limitation

The same analysis from I.A.1, supra, applies to the Always an Adult rule. The HRA's USAO Limitation cannot be interpreted as prohibiting any and all legislative acts which even tangentially "affect" the USAO's powers; instead, the limitation is likely violated only when the D.C. Council attempts to undermine the USAO's core prosecutorial functions, such as by explicitly reassigning those functions to OAG.

Eliminating Always an Adult would not compromise USAO's ability to prosecute. Indeed, if the D.C. Council eliminated the Always an Adult Rule, the only real-world difference would be that some secondary prosecutions—those not eligible for "direct file"—would have to be brought by the USAO in the Family Division instead of the Criminal Division. As described in part 1.A.1, supra, this would not change the USAO's core prosecutorial functions and thus would not seem to rise to the level of a HRA violation.

B. Eliminating "Always an Adult" Would not Violate the Title 11 Limitation

Eliminating the Always an Adult Rule would not seem to violate the Title 11 Limitation because such a reform would have no effect on the jurisdictional structure set forth in Title 11. As described in part I.B.1, supra, the Title 11 Limitation is only triggered by amendments to Title 11. The Always an Adult Rule is found, in its entirety, in Title 16. Moreover, Title 11 does not incorporate the Always an Adult Rule by cross reference or otherwise.

Even if the Title 11 Limitation were to theoretically include unconnected reforms in Title 16, the HRA still only prohibits the D.C. Council from enacting statutes that have at least some effect on Title 11's basic jurisdictional scheme. Eliminating the Always an Adult Rule would not seem to do so. Title 11's jurisdictional scheme assigns the Family Court jurisdiction over "proceedings in which a child, as defined in § 16-2301, is alleged to be delinquent, neglected, or in need of supervision." Eliminating the Always an Adult Rule in Title 16 would not change this basic jurisdictional setup in that it does not purport to change the definition of "child" in § 16-2301 or the Family Court's jurisdiction over such children.

40 See id.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
ADMINISTRATIVE ORDER 16-09

Individual Determinations for the Use of Restraints on Respondents (Supersedes Administrative Order 15-07)

WHEREAS, pursuant to D.C. Code § 16-2301.02, the purpose of the delinquency system is to deal with the problem of juvenile delinquency while treating children as children in all phases of their involvement, to place a premium on their rehabilitation, and to provide for the safety of the public;

WHEREAS, the decision of whether to restrain respondents during juvenile court proceedings impacts courtroom security, personnel resources, and judicial administration;

WHEREAS, the vast majority of jurisdictions have abandoned the indiscriminate use of restraints in juvenile cases through changes to court rules, amendments to institutional policies, or through statutory reform;

WHEREAS, no court rule, institutional policy or statute in the District of Columbia addresses the use of restraints on respondents during juvenile court proceedings; and it is most appropriate that decisions on the use of restraints depend on individual determinations; and

WHEREAS, the term "restraints" means any device used to control or bind the movement of a person's body or limbs.

NOW, THEREFORE, it is by the Court,

ORDERED, that the Family Court will make an individualized determination on the use of restraints at all hearings for cases brought under Title 16, Chapter 23, of the D.C. Code, in which a person is transported from a secure facility in restraints. It is further,

ORDERED, that respondents will remain in restraints while they are transported in the courthouse. It is further,

ORDERED, that respondents will remain in restraints when they enter the courtroom before the Family Court makes an individualized determination on the use of restraints. It is further,

ORDERED, that the Family Court will raise the issue before every hearing in which restraints may be involved and will provide respondents with an opportunity to contest the use of restraints when making an individualized determination. It is further,

ORDERED, that counsel may waive the appearance of a respondent who does not wish to enter the courtroom in restraints until after an individualized determination has been made. It is further,

ORDERED, that the Family Court may receive information relevant to the determination of the use of restraints from the agency, or agencies, charged with supervision or custody of the child. It is further,

ORDERED, that the Family Court will make an independent and individualized determination on the use of restraints. It is further,

ORDERED, that the Family Court will order the removal of restraints, unless the Family Court finds that there is reason to believe that the use of restraints is necessary for the safety of the respondent or others, or to prevent flight. It is further,

ORDERED, that when the use of restraints is ordered, the Family Court will make written findings of fact in support of the order. It is further,

ORDERED, that this Administrative Order shall take effect on April 6, 2015.

SO ORDERED.

BY THE COURT:

DATE: May 31, 2016

/s/
Lee F. Satterfield
Chief Judge

Copies to:

Judges
Magistrate Judges
Executive Officer of the Court
Clerk of the Court
Division Directors
Defender Services Branch Chief
Council of the District of Columbia, Chairman of the Committee on the Judiciary
Council of the District of Columbia, Chairman of the Committee on Education
Attorney General of the District of Columbia
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Adolescent Domestic Battery Typology Tool Manual

Wendy Nussbaum, LCPC

Stuart M. Berry, MSW, LISW

Shannon Hartnett, M.A.

Gina Vincent, Ph.D

ModelsforChange
Systems Reform in Juvenile Justice

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Models for Change
Systems Reform in Juvenile Justice

Models for Change

All young people should have the opportunity to grow up with a good education, get a job and participate in their communities. Creating more fair and effective juvenile justice systems that support learning and growth and promote accountability can ensure that every young person grows up to be a healthy, productive member of society.

Models for Change: Systems Reform in Juvenile Justice, a MacArthur Foundation initiative, began by working comprehensively on juvenile justice reform in four states, and then by concentrating on issues of mental health, juvenile indigent defense, and racial and ethnic disparities in 16 states. Through collaboration with the Substance Abuse and Mental Health Services Administration (SAMHSA) and the Office of Juvenile Justice and Delinquency Prevention (OJJDP), Models for Change expanded its reach and its work of replicating and disseminating successful models for juvenile justice reform to 40 states.

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WITH ASSISTANCE FROM:

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Adolescent Domestic Battery Typology Tool Manual

Wendy Nussbaum, LCPC

Stuart M. Berry, MSW, LISW

Shannon Hartnett, M.A.

Gina Vincent, Ph.D

With assistance from: Jonathan Clayfield & Ryan Kelly

ModelsforChange

Systems Reform in Juvenile Justice

Executive Summary

There has been an increase in the number of youth referred to the juvenile justice system for charges related to abusing their parents. The Adolescent Domestic Battery Typologies Tool (ADBTT) was developed over the span of five years to provide a greater understanding of these youth. It was designed using a combination of the available research literature, a multi-site validation study, and clinical experience to fill a niche in the assessment of a population that has not been well understood. This assessment tool provides a structured framework to help inform case processing, dispositional, and treatment decisions based on an assessment of youths' risk for future Adolescent Domestic Battery (ADB). Implementation of the ADBTT early in the juvenile justice process should lead to diverting the "right" youths away from formal processing with minimum intervention.

Significance and Benefits

The increasing prevalence of ADB has prompted more research and thinking around this issue in order to understand the underlying dynamics and identify the most effective services and supports to help both youth and their families. Typical responses to ADB rely on the adult intimate partner violence model, which typically favors separation of the parties and sole blame on the perpetrator. These responses fail to treat ADB as a family systems issue by focusing only on the youth and often place unnecessary strain on detention facilities and out of home placements.

Indeed, there are many aspects of an adolescent's abuse on a parent that differ from domestic violence directed towards an intimate partner on which many of our policies were based. In many families, ADB involves a pattern of aggression between the same parties (family members) in which there is not always a clear delineation between the victim and perpetrator, even within the same incident. The violence can appear reciprocal. Frequently it is the family that defines ADB and determines if it has occurred. Family expectations around acceptable behavior and the current situation may impact how behavior is identified and reported. Similarly, the *dynamics* of ADB differ from other forms of youth aggression (e.g., fighting, bullying, gang violence) because the youth has an emotional connection between himself and his victim, creating ambivalence over his or her feelings and his or her behavior. This connection, as well as the family's living arrangements, makes it difficult for the parties to separate, both emotionally and physically. In sum, ADB is a unique form of aggression and requires a specialized assessment that can guide the appropriate course of action.

With generous support from the MacArthur *Models for Change* (MfC) Initiative, three Illinois counties (Cook, DuPage, Peoria) set forth to develop and implement improved system responses to youth involved in domestic conflict and their families. Juvenile justice stakeholders in each of these counties found that the traditional approach of utilizing detention and formal court involvement was an ineffective means of achieving safety and holding youth accountable and did not adequately address the unique characteristics of ADB. In Illinois, for example, stakeholders found that despite 99% of these incidents resulting in either no injury or only minor injury, these youth were being placed into detention at nearly twice the rate of other offenders and were formally processed by the court at higher rates (Hartnett et al., 2012).

GUIDING PRINCIPLES

The development of this tool was guided by a number of important principles:

- ADB youth are different than adults engaged in intimate partner violence;
- Not all youth who enter the system for ADB are the same;
- ADB is predominantly a family problem rather than a youth-specific problem;
- Many of these youth suffer from mental health issues or are entangled in ongoing family cycles of violence and neglect, substance abuse, and criminal involvement;
- There are too few alternatives to formal system involvement or secure detention; and

- Based on actual risk of harm to others, some of these youth and families do not belong in the "delinquency" system at all.

BENEFITS

It is our hope that implementation of the Adolescent Domestic Battery Typologies Tool will result in:

- Increased use of diversion for youth who are charged with ADB with the "right" youth being diverted away from formal processing;

- Decreased use of detention as a means for separating youth from their parents; and

- Matching youth to appropriate interventions based on their characteristics (or 'typology') as opposed to 'one size fits all' treatment.

Purpose and Use of the ADBTT

The ADBTT allows for increased understanding of the differences among youth in this population along a risk continuum. The ADBTT is a reliable and valid tool that was designed to aid in dispositional and treatment planning by identifying youth at risk of committing another act of domestic battery. This innovative tool assigns youth to one of four distinct typologies, providing a framework to match dispositional responses with a youth's risk level and characteristics in order to achieve better outcomes. The typologies are as follows:

- **Defensive** – *any* violence (not just the current incident) directed toward the parent has been in response to a physical threat by the parent.

- **Isolated incident** – violence was an isolated event of aggression born out of atypical family or individual stress. Without such stress youth may have chosen a more appropriate conflict resolution.

- **Family Chaos** – a pattern of events in which the youth's behavior predictably spirals to the point of aggression in order to obtain his or her purposes and is characterized by inconsistent and unclear parental authority.

- **Escalating** – a pattern of behavior designed to intimidate, control and coerce the parent into giving into the youth's demands and ultimately to shift parental authority to the youth, effectively establishing the youth in a position of control over the parent.

By assigning youth to the typologies, the ADBTT provides the basis for recognizing that all youth who commit domestic battery do not have the same risk level to reoffend and should be given different responses and interventions. For example, the continuum of classification categories identifies youth who could be effectively handled through system diversion. The assessment of risk may also be used to address level of supervision requirements for probation as well as potential out of home placement needs, including level of safety/security that is necessary.

Where Should It Be Implemented?

The ADBTT is designed as a pre-dispositional assessment instrument for use in juvenile justice settings. As such, it can be used at the time of arrest, upon admission to detention, in alternative domestic violence or crisis center settings, or as part of the court or probation intake process. Although the ADBTT can be used post-adjudication, it is recommended that the ADBTT be used pre-adjudication in order to assist in making diversion decisions prior to adjudication, as well as later dispositional decisions where applicable.

In some situations, the tool can also be used post-disposition, via a referral from the Court, when family violence has been identified as an issue in the dispositional or probation process. Although the tool was developed and validated for use in juvenile justice settings, it has the potential to be used in other related clinical and social service settings that deal with family violence, such as crisis centers, community mental health/family counseling agencies, and child welfare settings.

Who Is Eligible for Use?

The tool is appropriate for use with youth being charged with an act of family violence against a parent or caregiver. There may be occasions, however, when the nature of the situation (e.g., a mental health crisis, traumatic emotional or physical injury, or alcohol/drug impairment) may render an immediate assessment of this type impractical.

How Is It Completed and What Are the Resource Requirements?

The ADBTT is comprised of 30 items falling within eight domains. Items are rated based on a short interview with the youth, an interview with the parent, and collateral information (e.g., police reports, criminal and social histories, child welfare system records). The ADBTT may be supplemented with mental health screening, drug and alcohol screening, and screening of trauma-related symptoms as resources permit. The tool was designed to be administered by a wide variety of professionals, regardless of licensure; however, assessors should demonstrate competencies in adolescent development and family systems, motivation interviewing and basic trauma principles. The tool developers recommend assessors complete a specialized training workshop for the ADBTT but this is not required. Training can be requested through the NYSAP website at www.NYSAP.com.

The ADBTT manual is available for download free from www.NYSAP.com or http://www.modelsforchange.net/publications/index.html. It summarizes the research on adolescents who abuse their parents, describes the development and validation of the ADBTT, explains how to administer and score the tool, and can be used to guide the implementation of the ADBTT in a juvenile justice or other child and family service setting.

How Was It Developed?

The development of the Adolescent Domestic Battery Typologies Tool was a product of the MfC Initiative, funded by the John D. and Catherine T. MacArthur Foundation (Grant #13-103826-000-USP). The tool was created by the authors (a group of individuals working with youth charged with adolescent domestic battery), with the assistance of the National Youth Screening & Assessment Project (NYSAP), a technical assistance and research group dedicated to helping juvenile justice programs implement screening and assessment tools to identify youths' needs for behavioral health intervention and risk management.

The items of the ADBTT were originally written based on years of clinical observation and experience with these families as well as small scale pilot research study. The final version of the ADBTT was based on findings from the ADBTT Validation Study conducted in six jurisdictions across the US. This study has the largest reported sample of youth who have been arrested for an act of domestic battery toward a parent. The final tool and typologies were generated based on factor analysis and the items were all tested for their inter-rater reliability to ensure different types of assessors could rate the items of the assessment consistently. The sample of youth was tracked for an average of 10.6 months to determine whether the typologies validly predicted who was most likely to be charged with another act of domestic battery or to reoffend generally. The researchers also explored other characteristics of these typologies, such as whether they had mental health issues or a history of traumatic experiences.

The ADB Typologies are significant predictors of new charges for domestic violent acts. Youth falling into the Family Chaos and Escalating Types were significantly more likely to receive new petitions for a domestic violent act than the Defensive and Isolated Types. A progressive risk score (PRS) is also calculated. The PRS is an accurate indicator of individual youth in the lower risk Types who may progress in their risk level and commit domestic acts again if they do not receive intervention.

What Is the Value Added?

There are many screening and assessment tools available for use in juvenile justice settings to identify various types of behavioral health needs (e.g., mental health screening, potentially traumatic events screening) and to assess risk of reoffending. Before developing and releasing yet another tool into the juvenile justice field, it was important to determine whether the tool provided any unique information that the juvenile justice system would not get from other tools used in routine practice. The use of multiple tools in a juvenile justice setting, particularly in an early setting such as pre-adjudication intake, is essential but the number of tools should be kept to a minimum. Therefore, new tools are only necessary if the tool is filling an important gap.

The most important question in this context was whether the ADBTT added any value to general risk assessment tools for reoffending that are already used widely by juvenile justice agencies. The ADBTT was compared to several other popular and valid risk assessment tools (e.g., YASI, OYAS, ARNA) in its ability to predict youth who received new petitions for acts of domestic violence.

The ADBTT improved upon regular risk assessment tools with respect to predicting new domestic battery-related offenses because it was more discriminating. In addition, the information gathered for the ADBTT is more specific to ADB risk than a risk assessment tool for general reoffending, and therefore, should be better equipped to guide the appropriate ADB-related service modalities.

Table of Contents

Section 1- Using the ADBTT

Chapter 1: Introduction to the ADBTT 1

Literature Review 1
History of the Adolescent Domestic Battery Typologies Tool (ADBTT) 3
Need for the ADBTT 6
Considerations for the use of the ADBTT 7
Where should it be implemented? 7
Who is eligible for use? 7
What are the legal considerations? 10
What are the resources needed and the costs? 11
How does an agency implement an assessment system? 12

Chapter 2: Introducing the Typologies and Domains 13

Guiding Principles 13
The ADBTT Typology Graph 15
The ADBTypologies 16
Defensive Typology 16
Isolated Incident Typology 16
Family Chaos Typology 17
Escalating Typology 18
Determining the Progressive Nature of the ADB Typologies 19
The ADBTT Domains 20
Domain 1: Scope of ADB 20
Domain 2: Parent Authority 21
Domain 3: Predictability of Event 24
Domain 4: Triggers to Violence 25
Domain 5: Behavioral Intent 27
Domain 6: Youth AttitudeToward Violence 29
Domain 7: Youth Attitude Toward Change 31
Domain 8: Parent's Concern 33

Chapter 3: Scoring the ADBTT 35

General Instructions for Gathering Information 35
Handling Issues That Arise 36
Instructions for Completing the ADBTT 36

Chapter 4: Responding to Typology Scores 41

Matching Typologies with Interventions 41
Systems Responses 41
Treatment Responses 43

Section 2-Development of the ADBTT: A Technical Report

Chapter 5: The ADBTT Validation Study: Identification of the Typologies 45

Description of Sites 45
Description of the Sample 46

Chapter 6: Psychometric Properties and Reliability 51

ADBTT Scoring Procedures 51
Inter-Rater Reliability 51
Identifying the ADB Typologies Using Factor Analysis 52
Gender and Race/Ethnicity Differences 53
Progressive Risk Score 54
Concurrent Validity: Correlates With The ADB Typologies Tool 55
ADB Typologies and Potentially Traumatic Experiences 55
ADB Typologies and Behavioral or Mental Health Problems 56

Chapter 7: The ADBTT and Risk for Reoffending 59

ADB Typologies and Risk for Reoffending Assessment Tools 59
Rates of Reoffending 60
ADB Typologies and Reoffending 61
Progressive Risk Score and Reoffending 62
General Risk Assessment Tools and Reoffending 62
Does the ADBTT Detect Who Is Likely to Have a Future ADB Charge? 63
Do the ADB Typologies Detect Who Is Likely to Have a Future ADB Charge Better Than General Risk Assessment Tools? 64
Interventions, ADB Types and Reoffending 64
Services Youth Received 65

References 67

Appendices 69

A. Literature Review of Prevalence Studies on Adolescent Domestic Battery 71
B. The Adolescent Domestic Battery Typologies Tool 73
C. Introductory Script and Suggested Interview Questions 79
D. Inter-Rater Reliability for Original ADBTT Items 83

SECTION 1
USING THE ADBTT

CHAPTER 1: Introduction to the ADBTT

LITERATURE REVIEW

Terminology

Youth violence toward a parent was first identified as "battered parent syndrome" by Harbin and Madden in 1979. Now there seems to be varied, yet interchangeable terminology used to describe this long standing, but historically hidden problem (Holt, 2013). In this manual, the term "**Adolescent Domestic Battery**" (**ADB**) is used to encompass family crisis or violence that results in police contact and possible delinquency system involvement for a young person. Youth may be charged with domestic battery against a parent, caregiver or sibling, or the youth may be charged with a different offense connected to the family conflict (Hartnett S., et al., 2012)[1].

Prevalence

Research estimates the number of adolescents who have hit their parents at least once as ranging anywhere from 3-20% (Cornell & Gelles, 1982; Ulman & Straus, 2003; Snyder & McCurley, 2008). However, ADB prevalence research has typically been small in scale, qualitative, and based almost exclusively on self-report, all of which limit the conclusions that can be drawn. Research has been conducted with both community samples and juvenile justice data but the true prevalence level among the general population is likely underestimated (Condry & Miles, 2013; Holt, 2013). Further, prevalence estimates are inconsistent because youth violence toward parents has not been clearly delineated as a form of family violence (e.g. Estevez & Gongora, 2009; Walsh & Krienert, 2008; Buel, 2002; Kethineni, 2004; Ulman & Straus, 2003; Cornell & Gelles, 1982).

A sample of some of the major studies conducted on adolescent to parent violence and their key findings regarding prevalence is provided as Appendix A.

Offender Demographics

As cited in Holt (2013), studies estimate that males represent between 58% and 87% of the perpetrators of violence against parents (Kethineni, 2004; Snyder & McCurley, 2008; Walsh & Krienert, 2008; Condry & Miles, 2013); which suggests that some have found little to no gender differences among youth arrested for assaulting their parents (e.g. Cornell & Gelles, 1982; Gebo, 2007; Strom, et al., 2010). In fact, Strom (2010) concludes that any gender gap that may exist is narrowing.

In Holt's (2013) review of several recent studies, she found that the mean age of parent abuse offenders in the juvenile justice system is 15 (see Kethineni, 2004; Gebo, 2007; Walsh & Krienert, 2007; Strom et al. 2010). Condry and Miles' (2013) study of 1,892 cases reported to London Police in 2009-2010 found that the mean age of male juvenile offenders was slightly older at 16.4 years. Studies have also found a steady decline in the overall rate of violence toward parents as youth age (Ulman & Straus (2003).

1 This terminology was derived by practitioners in Illinois using state criminal statute as a reference (750 ILCS 60) in order to help foster a common understanding of the issue.

Evidence is inconclusive regarding the association between parent abuse and social class, ethnicity, and previous offending (Holt, 2013). Some studies suggest that a majority of perpetrators and victims are White (Condry & Miles, 2013; Walsh & Krienert, 2009; Snyder & McCurley, 2008). Routt and Anderson (2011), however, reported an overrepresentation of African Americans in the sample of cases reported to King County, Washington's juvenile court. Phillips and Bowling's research, as cited in Condry and Miles (2013), suggests this may be a result of the overrepresentation of young black offenders across the juvenile justice system. Other studies have found no significant relationship between ethnicity and violence toward parents (Cornell & Gelles, 1982; Gebo 2007).

Victim Demographics

Mothers are found to be the victims of most parental abuse in juvenile justice, clinical, and community samples (Kethineni, 2004; Walsh & Kreinert, 2009; Gebo, 2007; Cornell & Gelles, 1982; Snyder & McCurley, 2008; Strom et al., 2010; Routt & Anderson, 2011; Condry & Miles 2013). Kethineni (2004) articulates possible reasons for mothers' likelihood of abuse, including their physical size and increased opportunity for victimization based on the fact that most youth live with their mothers. Other research suggests that since mothers engage in more limit setting and supervision than fathers, they are more likely to be targets of adolescent violence (Ulman & Straus, 2003).

As Holt (2013) notes, studies that have drawn on clinical data, juvenile justice data, and survey data tend to have identified a mean age for parents victimized by their children at 41-50 years. Many studies have found that most of the victims of parent abuse were White (Walsh & Krienert, 2009; Strom et al., 2010; Condry & Miles, 2013).

Level of Severity

There is very little research on incident severity in parent abuse cases. However, available research shows a low level of injury compared with adult domestic assaults (Condry & Miles, 2013; Snyder & McCurley, 2008). Condry & Miles (2013) further stress that a significant proportion of parents reporting violence from their children to the police are male, and they tend to report more serious levels of violence than female victims. Some research finds that girls are more likely to be reported for assault with minor injury and boys more likely to be reported for criminal damage to property (Condry & Miles, 2013; Walsh & Krienert, 2007).

Pathways to ADB

Research describes intrapersonal, interpersonal, intra-familial, and structural explanations for parent abuse, which may include witnessing intimate partner violence, parenting style, family conflict, mental health issues, substance abuse, child abuse, poverty, stress, negative peer influence, and lack of social supports (Holt, 2013; Condry & Miles, 2013; Howard, 2011; Estevez & Gongora, 2009; Agnew & Huguley, 1989). However, while familial and sociological perspectives are slowly starting to permeate explanations of parental abuse, psychological models citing mental illness, personality disorders, and effects of substance abuse still underpin most responses to this type of violence (Bobic, 2004; Holt, 2013).

Holt (2013) asserts that an analysis of parenting practices (e.g. supervision, discipline) provides the most dominant explanation of parent abuse, both scientifically and practically. This is largely based on Baumrind's research where he identified three consistent parenting styles: authoritarian, authoritative, and permissive (see 1966, 1967). For example, when

parents cannot effectively enforce the rules, children exhibit aggression toward their parents to gain power and control to replace ineffective parenting. Violence can become normalized and serve as a method of communication (Holt, 2013). Parent abuse can also serve as a way for the youth to adapt to abusive treatment from parents (Brezina, 1999; Kethineni, 2004). Growing up with violence in the home can have a powerful, lasting effect on the way we respond emotionally and cognitively to difficult situations (Routt & Anderson, 2015). As Estevez and Gongora (2009) explain, these youth are simultaneously considered victimizers and victims.

Relationship of Adolescent Domestic Battery to Other Forms of Family Violence

Routt and Anderson (2015) assert that parent abuse is different from other types of abuse in three distinct ways. First, social and cultural norms support parental power and control over their children for important reasons. They argue that other social norms may support abuse and violence, but they are not part of the role of the child in a family. Secondly, parents are legally and morally responsible for their children and want to grow closer to their child, even after being victimized by them. Victims of partner abuse have the possibility and sometimes the resources to separate from the abuser, while parents often do not. And thirdly, parents often seek outside help, sometimes from police, because of growing concern that their child will continue to use violence in other settings and relationships.

Routt and Anderson (2015) further argue that the patterns of parent abuse as well as the types of abuse are markedly different from intimate partner violence. For example, it is uncommon for youth to engage in patterns of: possessiveness, jealously, intrusiveness, and attempts to isolate their parent; all of which are characteristic of violent intimate partner relationships. Further, youth do not typically seek to control the family finances by restricting the financial freedom of their parent as is customary in intimate partner abuse.

Despite critical differences, Routt and Anderson (2015) find that parent abuse does parallel intimate partner violence in that the various behaviors exhibited by youth have the effect of usurping a parent's power in the family. They explain that some teens use abuse or violence in isolated and extreme circumstances, while others develop patterns of abusive behavior that undermine their parent's decision making authority and challenge limits and consequences. Routt and Anderson do acknowledge, however, that most teens find healthy and non-violent ways to obtain independence.

HISTORY OF THE ADOLESCENT DOMESTIC BATTERY TYPOLOGIES TOOL (ADBTT)

With generous support from the MacArthur Foundation's Models for Change (MfC) Initiative, three Illinois counties (Cook, DuPage, Peoria) set forth to develop and implement improved system responses to youth involved in domestic conflict and their families. Since 2006, these sites have demonstrated how police, juvenile court, probation, and community-based service providers can collaboratively provide safe and economical alternatives to secure detention and system penetration.

These reforms were driven by juvenile justice stakeholders in each of these counties who found that the traditional approach of utilizing detention and formal court involvement was an ineffective means of achieving safety and holding youth accountable and did not adequately address the unique characteristics of ADB. In DuPage County for example, stakeholders found that despite 99% of these incidents resulting in either no injury or only minor injury, stakeholders found that these youth were being placed into detention at nearly twice the rate of other offenders and were formally processed by the court at higher rates (Hartnett, et al; 2012). Notably, data revealed that these youth were also being re-arrested more quickly than youth charged with other offenses.

Key stakeholders from each of these three counties met a number of times to examine local and state-level data as well as discuss their anecdotal experiences working with these youth and families. These discussions prompted the careful consideration of the following findings in the creation of a more appropriate and impactful response to youth charged with domestic battery:

- Focusing on a youth's behavior alone did not resolve the underlying family needs or dynamics;
- ADB is different than intimate partner violence so assuming a youth was a "domestic batterer" in development was not always accurate or useful;
- Youth entering the system for ADB were a heterogeneous group and there was too little known about what was actually occurring with families experiencing this problem;
- Many of these youth often suffered from mental health issues or were entangled in ongoing family cycles of violence and neglect, substance abuse, and criminal involvement;
- There were too few alternatives to formal system involvement or secure detention; and
- Based on actual risk of harm to others, some of these youth and families did not belong in the "delinquency" system at all.

These anecdotal experiences were strongly supported by the small, but growing, research on ADB (see Literature Review). In 2009, this prompted Wendy Nussbaum, Executive Director of Northeast DuPage Family and Youth Services (NEDFYS), to create a conceptual tool to categorize the differences among youth entering the juvenile justice system on domestic related charges. Stuart Berry and Hunter Hurst, two consultants from the National Center for Juvenile Justice (NCJJ) and lead MfC consultants in Illinois, took note of the potential this conceptual framework had to provide a more effective way of working with these kids and families.

Over the next year, this tool was refined and pilot tested with domestic battery cases in the three Illinois MfC sites. Over a period of six months, the NCJJ consultants reviewed approximately 150 files in order to retroactively apply the tool. These file reviews clearly demonstrated the tool's conceptual validity in that youth seemed to fall roughly into one of the five originally conceived categories. As a result, the tool was further refined over the next 18 months based on both an informal study of ADB cases and on continuing clinical experience led by the ADB Consortium, which included Wendy Nussbaum, Stuart Berry, Hunter Hurst, and Shannon Hartnett.

In 2010, with promising findings from this initial inquiry, NCJJ consultants contacted Dr. Gina Vincent of the National Youth Screening and Assessment Project (NYSAP) to develop a pilot validation study of the tool. NYSAP researchers partnered with local practitioners to gather a random sample of 89 youth (31 females and 58 males) charged with domestic battery in 2012 using court files from DuPage and Cook counties. The study was designed to take an initial look at whether there was any validity to the composition of the typologies (using factor analysis) and whether some types were more likely to reoffend than others.

The initial factor analysis indicated that there appeared to be five typologies as originally conceived but the sample was too small to draw conclusions. It was also clear that these typologies differed in their likelihood of committing another act of domestic violence and in their needs for intervention. This very basic validation process showed significant promise for the tool's applicability to ADB cases but revision and validation with a larger sample was required.

In 2013, The MacArthur Foundation funded NYSAP and the ADB Consortium to conduct a large-scale study in multiple jurisdictions to refine and validate the ADB Typologies Tool in the field. The ADBTT Validation Study was designed to ensure the tool was valid for use across jurisdictions. The researchers identified six jurisdictions willing to volunteer as testing sites:

- DuPage County, Illinois
- Toledo, Ohio
- San Antonio, Texas
- Tucson, Arizona
- Hartford, Connecticut, and
- New Britain, Connecticut.

The research design was multifaceted to determine:

- The presence and structure of typologies to classify youth (using factor analysis);
- Whether the tool could be rated reliably across different youth and assessors from different professions (e.g., social workers, probation officers, intake workers);
- If some types of adolescent batterers were more likely to commit future domestic battery;
- If some youth could be safely diverted from the juvenile justice system without a risk to public safety; and
- A common language to solidify our understanding of ADB.

The ultimate goal of this effort was to modify the tool for use as a specialized assessment and case-planning tool upon system entry for youth charged with domestic related offenses. Each site 1) reviewed the tool for local applicability and relevance; 2) helped develop a standard clinical interview process; 3) used the ADBTT and some other tools in their routine intake process for youth charged with ADB of a parent; and 4) assisted with the interpretation of final results and wording of the final ADBTT. Each youth intake in the sample was tracked to determine if they reoffended over a minimum 10 month period. The results of this study were incorporated into the final ADBTT described in this manual and are described in detail in Chapters 5 through 7.

NEED FOR THE ADBTT

Typical responses to ADB rely on an adult intimate partner violence/ perpetrator model, which typically favors separation of the parties and sole blame on the perpetrator. These responses fail to treat ADB as a family systems issue by focusing only on the youth and often place unnecessary strain on detention facilities and out of home placements. Further, in most cases, the dynamics of ADB are different from the dynamics of other types of adolescent aggression including fighting, bullying, gang violence, etc. One major difference is the emotional connection between victim and perpetrator. In ADB, the youth has an emotional connection between himself and his victim, creating ambivalence over his feelings and his behavior. "I love my mother and I know I should not hit her; but, on the other hand..." This connection, as well as the family's living arrangements, makes it difficult for the parties to separate, both emotionally and physically.

In many families, ADB involves a pattern of aggression between the same parties (family members) in which there is not always a clear delineation between the victim and perpetrator, even within the same incident. The violence can appear reciprocal—"He pushed me, I pushed him back." However on most occasions, only one person is charged. (An exception would be two teens or two groups of teens fighting, in which case both parties likely would be arrested and held responsible for their actions.) Other types of adolescent aggression appear more random or have a clear-cut perpetrator, as is the case with bullying.

In families affected by ADB, frequently it is the family that determines whether or not ADB has occurred. Family expectations around acceptable behavior and the current situation/emotional state of the family members may impact how behavior is identified and reported. In other instances of aggression, it is the system that determines when the aggressive behavior has met the threshold in order to be charged with battery.

It is important to understand the differences between the dynamics of ADB and other aggression because it impacts how the youth's aggressive behavior will be treated. In order to achieve the best possible outcomes for ADB, the family should be involved in treatment. Treatment should address not only each family member's responsibilities and needs but also the interactions and triggers to violence within the family.

The increasing prevalence of ADB has prompted more research and thinking around this issue in order to understand the underlying dynamics and identify the most effective services and supports to help both youth and their families. The ADBTT was developed based on the unique dynamics of ADB and will allow for increased understanding of the differences among youth in this population along a risk continuum. This innovative tool is expected to provide a much needed framework to match dispositional responses with a youth's risk level in order to achieve better outcomes. Sound implementation of the ADBTT should prevent youth who are unlikely to repeat or to be delinquent from unnecessarily penetrating the system and possibly maximize the effectiveness of program services. The tool may eventually be used by child welfare systems when contemplating making a juvenile justice referral.

The ADBTT is an attempt to provide some indication of likelihood for continued risk of family violence. At a minimum, it is a management tool that can assist procedural decision-making. The continuum of classification categories is designed specifically to identify youth who could be effectively handled through system diversion. The assessment of risk may also be used to address level of supervision requirements for probation as well as potential out of home placement needs, including level of safety/security that is necessary. Additionally, the tool may be used to assist in decisions about the need for, and alternatives to, secure detention.

CONSIDERATIONS FOR USE OF THE ADBTT

WHERE SHOULD IT BE IMPLEMENTED?

The ADBTT is designed as a pre-dispositional assessment instrument for use in juvenile justice settings. As such, it can be used at the time of arrest, upon admission to detention, in alternative domestic violence or crisis center settings, or as part of the court or probation intake process. Although the ADBTT can be used post-adjudication, it is recommended that the ADBTT be used pre-adjudication in order to assist in making diversion decisions prior to adjudication, as well as later dispositional decisions where applicable.

In some situations, the tool can be used post-disposition, via a referral from the Court, when family violence has been identified as an issue in the dispositional or probation process. If a youth is served in the formal system, the tool can be used at progress intervals (typically six months) to re-evaluate ongoing risk and need. Although the tool was developed and validated for use in juvenile justice settings, it has the potential to be used in other related clinical and social service settings that deal with family violence, such as crisis centers, community mental health/family counseling agencies, child welfare settings, and police department operated diversion programs.

WHO IS ELIGIBLE FOR USE?

The tool is appropriate for use with youth being charged with an act of family violence against a parent or caregiver. There may be occasions, however, when the nature of the situation (e.g., a mental health crisis, traumatic emotional or physical injury, or alcohol/drug impairment) may render an immediate assessment of this type impractical.

Determining whether to use the ADBTT on a particular youth and family is based on several factors: 1) Family Composition, 2) Youth's Developmental Ability, and 3) Youth's Mental Health.

Family Composition

Family composition can change over time, through divorce, death, broken relationships, inability to parent, etc. The ADBTT is designed to be used when a youth is aggressive or violent toward someone *who is in a **stable (for the foreseeable future), long-standing, parental role over the youth***.

Parental role can be viewed as the person in the position of responsibility for the actions and activities normally assigned to the parent or caregiver. Someone in the "parental role" has the duty to care for, protect and reasonably discipline the child. This can include:

- Financial responsibility for food, clothing, housing and health care,
- Responsibility for making decisions for the child such as residency, education, religion, etc., and
- Responsibility for child's moral development, behavior, and growth.

Parental role may or may not include legal responsibility for the youth. For example, a step-parent may be in a parental role but may not be legally responsible; whereas, an adoptive parent would be legally responsible for the youth.

It is important to note that just because someone is in a parenting role; it does not mean that he/she is fulfilling all the responsibilities of that role. When considering the use of the ADBTT, the assessor is asked to determine if the "victim" is in a parental role, not if the victim is effective at parenting.

The assessor should determine whether the person in the parenting role had been in that role for a significant length of time (**long-standing**), prior to the incident. For example, aggression toward a step-parent who has been married to the child's parent for the past ten years is different than aggression toward a step-parent who met, married and moved in within the past six months. ***Rule of thumb: if the victim has been in parental role for less than 12 months prior to the incident, do not use the ADBTT to assess youth's aggression.***

Because the composition of a family can change, the person who may be identified as being in the parental role can also change. If the family situation is identified as one that is stable for the foreseeable future (i.e. presumed to be permanent), including adoption, the ADBTT may be appropriate. If the situation is "temporary", including foster care, do not use the ADBTT. The table below lists options for family composition and should be used to help determine whether the ADBTT is applicable.

Locate the family composition that includes the youth being assessed and the victim of the aggression. (For example, if the youth lives with his father and stepmother but the aggression was toward his biological mother, the assessor would choose "non-custodial parent.") If the youth lives in a family situation for which the family composition is not listed, the assessor should use the same three questions. If the identified family composition has "Depends on family being assessed" as an answer to any of the questions, the assessor should ask the corresponding question(s):

- Parental role: Does the "victim" have a parental role over the youth?
- Long-standing parental role: Was the "victim" in the parental role well before the incident occurred?
- Stability of parental role: Is the parental role presumed to be stable for the foreseeable future?

If the answer to all three questions is "yes", the ADBTT can be used to assess the family.
If the answer to any of the questions is "no", the ADBTT should not be used.

FAMILY COMPOSITION	PARENTAL ROLE	LONG-STANDING Parental role	FUTURE STABILITY of Parental Role	USE ADBTT?
Intact Family	YES	YES	YES	**YES**
Single Parent	YES	YES	YES	**YES**
Non-custodial Parent	Depends on family being assessed	Depends on family being assessed	Depends on family being assessed	**If answer to all three questions is yes, use ADBTT**
Sibling, Non-caregiver	NO	NO	NO	**NO**
Sibling as Caregiver	YES	Depends on family being assessed	Depends on family being assessed	**If answer to all three questions is yes, use ADBTT**
Adoptive Parent	YES	YES (if > 12 months)	YES	**If answer to all three questions is yes, use ADBTT**
Step Parent living with parent	YES	YES (if > 12 months)	YES	**If answer to all three questions is yes, use ADBTT**
Parent's live-in Girlfriend/Boyfriend	Depends on family being assessed	Depends on family being assessed	Depends on family being assessed	**If answer to all three questions is yes, use ADBTT**
Relative as Caregiver	YES	YES (if > 12 months)	Depends on family being assessed	**If answer to all three questions is yes, use ADBTT**
Foster Parent, Licensed	YES	YES (if > 12 months)	NO	**NO**
Unlicensed Foster Parent*	Depends on family being assessed	Depends on family being assessed	NO	**NO**
Congregate Care**	NO	Depends on family being assessed	Depends on family being assessed	**NO**
Youth's Boyfriend/ Girlfriend***	NO	NO	NO	**NO**

**An unlicensed foster parent would include informal arrangements, such as living with friend's family or "couch-surfing."*

***Congregate Care would include group homes, shelters, etc. The ADBTT was not designed to be used in these settings.*

****This tool is NOT designed to measure teen dating violence.*

Youth's Developmental Ability

Most youth ages 12 to 18 will be able to understand the concepts and participate in the clinical interview needed to complete the ADBTT. Youth with mild cognitive or neurological difficulties will need to be evaluated on a case-by-case basis for their ability to understand and participate in the interview.

Differentiating "developmental aggression" from adolescent domestic battery: Studies show that the majority of young children are physically aggressive toward siblings, peers and adults by 17 months of age. "Temper tantrums" including behaviors such as kicking and throwing things, are recognized as normal development. Most children learn to regulate their aggression and use alternatives during their preschool years (Trembly, 2004). This early aggression is substantially different from Adolescent Domestic Battery which is not considered normal developmental behavior. If a youth has a moderate to severe cognitive delay or a pervasive developmental disorder (including autism spectrum disorder) that causes him/her to function at a pre-school level, the ADBTT should not be used.

Youth's Mental Health

If a youth has mental health issues that historically have led to extreme aggression and/or violence, the ADBTT should be used with caution. Extreme episodes of aggression as a symptom of mental illness may potentially change the family dynamics on which it is predicated.

Additionally, if the youth or a family member is in an immediate state of trauma, having a mental health crisis or actively under the influence of substances, it would not be appropriate to proceed with the tool at that time. Once the crisis situation has been resolved, the tool may be administered.

WHAT ARE THE LEGAL CONSIDERATIONS?

The ADBTT can be used to make both procedural and treatment decisions in juvenile cases involving family violence. It is typically a pre-disposition tool used to make decisions on several issues: 1) appropriateness of system diversion; 2) level of system involvement necessary to achieve stated goals; and 3) treatment planning. The ADBTT may be applied prior to the initial hearing or adjudicatory proceedings with the proper protections in place.

There are due process considerations if an arrested youth denies the potential charge. In such cases, an attorney, a parent/ caregiver or the youth themselves may refuse to cooperate the with the ADBTT assessment process to protect against self-incrimination. The experience throughout the study of the ADBTT in a variety of jurisdictions is that this occurs very infrequently and that most referrals voluntarily agree to cooperate.

Confidentiality and Mandated Reporting

When engaging a youth/ family in the ADBTT assessment process, it is important to clearly communicate the limits of confidentiality. Certainly the information is not for public use and will not be shared outside the bounds of case decision-making. However, the information gathered will be used to make both procedural and treatment decisions and, as such, will be available to those individuals involved in those decision-making processes.

When performing this type of assessment, as well as any other assessment instruments (e.g., risk), it is not uncommon for the assessor to become aware of child abuse situations, which are differentiated from youth-initiated violence. If the assessor suspects or is made aware that child abuse has occurred, it is appropriate and most likely mandated that the assessor make a report to the local child welfare agency. Users should consult local/state statues for clear guidelines about when to report abuse and regarding legal responsibilities for mandated reporting.

WHAT ARE THE RESOURCES NEEDED AND THE COSTS?

There is no set financial cost for the use of the ADBTT aside from building a structure that permits use of an assessment tool with fidelity and training staff. There may be financial costs in terms of staffing assignments depending on your jurisdiction. In our national study, the perspectives on these costs varied widely. For some jurisdictions, the ADBTT was easily integrated into existing intake processes. Other jurisdictions that had historically performed little or no formal screening of these cases had to re-allocate staff time.

In terms of staffing, the costs of implementing the ADBTT vary widely depending on the type of staff assigned to conduct the assessment and at what point of contact the ADBTT is to be completed. If the ADBTT will be performed in operational detention facilities or crisis screening centers with existing staff, the additional costs may be minimal. If the ADBTT is performed by Court/Probation staff during a scheduled visit, it may require additional staffing. It is important, however, to weigh the benefits of utilizing the ADBTT against the anticipated financial costs. This tool is designed to help identify low risk youth who can be diverted from detention and/or formal court processing which may help alleviate the overall financial burden on the system.

Training Requirements and Assessor Qualifications

The use of the ADBTT requires an investment in some training and/or competencies for those administering the tool and those entering and keeping track of data. Although, the tool was designed to be utilized by a wide variety of people working in the field, regardless of licensure, it does require awareness of the interview dynamic as well as the subject matter. Assessors should demonstrate competence in the following:

- Adolescent development and family systems;
- Motivational interviewing techniques with youth and with families;
- Basic trauma principles; and
- Familiarity with local programs and resources to provide necessary services to the population being served by this tool.

Agencies may opt to obtain formal training for their staff on the ADBTT by the ADB research consortium (information can be obtained from NYSAP at www.NYSAP.us). The recommended training is multi-layered and includes an initial phone contact with the agency to review current processes and procedures, determining which staff should be trained on the assessment, on-site training for practitioners, and regular follow-up calls with project staff to review the experience and brainstorm solutions to problem areas if desired.

Data Collection

Data collection is imperative to establish baselines and trends, ensure the fidelity of the tool, track outcome data, and inform decision-making around ADB policy and practice. The size of the jurisdiction and/or the number of youth referrals for domestic-related offenses will most likely determine the overall level of necessary data automation for ADB information. Some systems may have existing databases into which ADB specific data can be easily integrated. Others jurisdictions may have to create data storage systems, which could include simple Excel spreadsheets or more sophisticated methods.

HOW DOES AN AGENCY IMPLEMENT AN ASSESSMENT SYSTEM?

There are many screening and assessment tools available for use in juvenile justice settings to identify various types of behavioral health needs (e.g., mental health screening, potentially traumatic events screening) and to assess risk of reoffending. Before developing and releasing yet another tool into the juvenile justice field, it was important to determine whether it provided any unique information that the juvenile justice system would not get from other tools used in routine practice. The use of multiple tools in a juvenile justice setting, particularly in an early setting such as pre-adjudication intake, is essential but the number of tools should be kept to a minimum. Therefore, new tools are only necessary if the tool is filling an important gap.

The most important question in this context is whether an adolescent domestic battery tool could contribute any unique information to the risk assessment tools for general reoffending that are already used by juvenile justice agencies. If these tools designed to identify youth at the highest risk for reoffending also identify youth who are likely to engage in continued domestic battery, than it is our premise that a risk assessment specifically for domestic battery would be unnecessary. Therefore, as part of its development, the ADB tool was compared to several other popular and valid risk assessment tools in its ability to predict youth who received new petitions or adjudications for acts of domestic violence, general violence, and other offenses. We determined that the ADBTT does improve upon a regular risk tool's prediction of new domestic violence related offenses.

The ADB Typologies tool was designed for the purpose of identifying youth at highest risk of reoffending violently in a domestic context and to aid in dispositional and treatment planning. Often times, it will be beneficial to pair the tool with other screening or assessment tools because other characteristics of youth charged with domestic battery will be relevant to their dispositional and treatment planning. For example, juvenile justice personnel may want to know whether a youth has been exposed to significant traumatic events in the past and is experiencing trauma-related symptoms. If a youth is experiencing these symptoms, it is likely relevant to his or her treatment planning because it may be the underlying cause of the youth's violence. Screening for general mental health problems can also be highly relevant to the treatment planning for these youth. For some, the root cause of their violence may be thought disturbance, in which case it will be imperative to obtain a psychological evaluation and psychiatric treatment.

CHAPTER 2: Introducing the Typologies and Domains

GUIDING PRINCIPLES

The Adolescent Domestic Battery Typology Graph is based on three primary principles:

- **ADB youth are different than adults engaged in intimate partner violence (IPV):** Not all youth who enter the juvenile justice system for ADB will grow up to engage in IPV. The family dynamics of power and control of ADB are very different from IPV. Appropriate parental authority over their children is necessary for healthy development and is supported by social and cultural norms. Within intimate partner violence, the ultimate power and control of one partner over another is dangerous. Treatment for ADB works to establish or re-establish parental authority while treatment for IPV seeks to balance authority or to disengage. ADB youth should not be treated the same as adult offenders.

- **Not all youth who enter the system for ADB are the same:** Social learning theory suggests that youth who have witnessed or experienced violence in the home are at increased risk to do the same as an adult. However, Holt (2013) states that generational transmission of violence only accounts for some of the cases of parent abuse. There are many different reasons, situations and factors that lead to youth violence toward a parent or caregiver. Effective treatment cannot be the same for all ADB youth, but must address the individual needs and strengths of the youth and their families.

- **ADB is predominantly a family problem rather than a youth-specific problem:** Youth who engage in ADB are frequently identified as "the problem" within the family and are dealt with as such. However, family dynamics and behaviors can cause ADB and are impacted by the consequences of ADB. Parenting styles, generational transmission of violence and the parent's own behavior can be factors in the youth's choice to use violence. On the other hand, youth violence affects the parents' ability to fulfill their leadership role in the family, threatens the family's resources and capacity to meet everyday challenges, and destroys the parent-teen bond. (Routt and Anderson, 2015). Providing services to the family rather than just the youth will allow the family to address underlying causes and have better outcomes.

THE ADB TYPOLOGY GRAPH

Using the guiding principles, ADB has been categorized into four sub-types (typologies): Defensive, Isolated Incident, Family Chaos and Escalating. Each typology has separate, distinct characteristics (domains) that include specific family dynamics, reactions, behaviors, attitudes and concerns.

The ADBTT was developed in order to determine the typology of a youth's violence or aggressive behavior.

The ADBTT is comprised of eight domains with a Progression Risk Score (PRS) associated with each domain. Each domain is separated into four unique options that are characteristic of the different typologies of domestic battery. The assessor must determine which of the four options best describes the youth and his/her family. The assessor further evaluates the youth and family under the escalating category by placing their behaviors, attitudes and concerns along a continuum of "0" to "4" according to the description that best fits the youth and his/her family. Each item defines the "0", "1", and "4" ratings. The "2" and "3" ratings are intentionally undefined so that the assessor can rate answers that may fall between the two extremes.

The domains and the PRS are scored according to the clinical impressions and judgment of the assessor based on information garnered through interviews with the youth and parent as well as any collateral information the assessor may have. Once the items are scored, the youth's typology is assigned. (Complete instructions for scoring the ADBTT are described in Chapter 3.)

The Adolescent Domestic Battery Typology Graph is included on the next page for an at-a-glance review of the specific categorization and organization of the typologies and their corresponding domains. **Please note that for the purposes of this manual, masculine pronouns are used to describe youth perpetrators of domestic battery toward a parent. The authors acknowledge that while boys represent the majority of perpetrators in many studies on adolescent domestic battery, a significant proportion are girls.**

ADOLESCENT DOMESTIC BATTERY TYPOLOGIES GRAPH **Items must be present for youth to fit in this type*				
	Defensive	**Isolated**	**Family Chaos**	**Escalating** (Items 1-4 represent range of behavior)
SCOPE OF ADB	*Any violence directed toward a parent has ONLY been in response to a physical threat	*Isolated/infrequent incidents (<3 in past 24 months); Incidents are not "ONLY in response to a physical threat"	n/a	Frequent (3 or more in past 24 months) and serious incidents; Incidents are not "ONLY in response to a physical threat" *1. Threats or aggressive incidents by youth are beginning to increase in frequency and severity* *4. Youth demonstrates an established pattern of frequent and severe aggression; at least one incident required medical attention*
PARENTAL AUTHORITY	Parent demonstrates developmentally unreasonable level of authority (authoritarian)	Parent demonstrates developmentally reasonable level of authority (authoritative)	Parental authority is inconsistent or unclear	Parental authority is shifting or has shifted to youth *1. Parental authority is becoming ineffective and control has shifted to youth* *4. Youth demonstrates unreasonable level of control/ decision-making over parent; parent has no influence over youth*
PREDICTABILITY OF EVENT	n/a	Both parent and youth may be surprised that situation deteriorated to point of violence	Neither parent nor youth is surprised by the predictable pattern/ intensity of youth's increasingly aggressive behavior; parent not living in fear	Neither parent nor youth is surprised by aggression; may or may not be surprised at the intensity of the aggression; Parent is increasingly fearful *1. Both express surprise at intensity; parent is beginning to be fearful* *4. Neither is surprised by intensity; parent lives in constant fear*
TRIGGERS TO VIOLENCE	Violence is protective and in response to physical threat by parent	Response to atypical stress without which incident would not have occurred	Response to inconsistent parental discipline, request or limit	Overall pattern shows lessening tolerance for anger and frustration *1. Response to parental discipline, request or limit with which youth would have previously complied* *4. No trigger necessary, unpredictable pattern*
BEHAVIORAL INTENT	Attempt to protect self or other family members	Impulsive, immediate remorse; no intent to harm	Increasingly aggressive pattern of behavior will stop once youth gets own way, no intent to harm	Pattern of behavior designed to intimidate or control in order to seize parental authority. Will harm if necessary *1. Youth is struggling to get what he wants and attempts to use intimidation to take over parental authority* *4. Behavior establishes coercive control over parent; deliberate with intent to harm*
YOUTH ATTITUDE TOWARD VIOLENCE	Believes violence is inappropriate but is justified in this incident	Believes violence is inappropriate and can identify more appropriate ways he could have resolved situation	Acknowledges violence as inappropriate but is willing to use it again if less aggressive behaviors are not effective in achieving his purpose	Youth is beginning to consider or has decided that violence is appropriate *1. Is ambivalent about the appropriateness of violence but is experimenting with violence to see if it is effective* *4. Accepts violence as preferred response*
YOUTH ATTITUDE TOWARD CHANGE	Youth hopes he won't have to repeat but may do so in response to a perceived threat	Believes own behavior was wrong & is willing to change	May believe own behavior is wrong but states he is only willing to change if parents change their behavior	Youth is resistant toward changing behavior *1. Unsure if own behavior needs to change; may believe it is wrong but knows he/she may repeat because it is effective (contemplation)* *4. Unwilling to change behavior; believes own behavior is acceptable and preferred*
PARENT'S CONCERN	Wants to deflect responsibility for incident to youth; may want to see youth punished	Wants situation resolved/no ongoing concerns regarding safety; may take some responsibility	Desires to have someone else (JJ system) impact/influence youth; Parent does not want to be required to change	Parent is concerned for Personal or Family Safety/ Future *1. Expresses some concern for safety but mostly is anxious for youth, family and own future if behavior continues* *4. Constant and overwhelming fear for personal and family's safety*

THE ADB TYPOLOGIES

Defensive Typology

Defensive domestic battery is defined as an incident of aggression in which the youth is defending himself or a family member from abuse. In order to fall into this typology, the assessor must determine that any violence (not just the current incident) directed toward the parent has been in response to a physical threat by the parent.

A youth categorized within the Defensive Typology has typically been raised in a home with an abusive or domineering parent with rigid rules and harsh punishments. The incident of aggression occurred because the youth felt physically threatened was responding to a perceived threat based on a history of parental aggression. The parent often would like to see the youth punished for his aggressive behavior and the parent does not take any responsibility for the incident. The youth understands that violence is inappropriate but feels in this situation he did not have a choice but to respond with aggression. Furthermore, the youth believes he would repeat the violence if it is necessary to continue to protect oneself or a family member.

Example: Katie was a fifteen year-old girl who grew up in a home where the punishment for breaking the rules was a whipping with a belt. Katie knew that her dad was upset over something that she had done at school. When she saw him walking down the hall toward her room with his belt in hand, she knew she was going to get a beating. Katie ran out of her room and into the kitchen where her mom was cooking dinner. Her dad followed her and Katie picked up a knife that had been lying on the counter. She told her dad, "You will never touch me again" and ran out the door into the back yard. Her father called the police and told them that she had threatened him with a knife. Because a weapon was involved, Katie was arrested.

The percent of juvenile-justice involved youth categorized within the Defensive Typology is relatively low. In many cases, these families are commonly and more appropriately served by the Child Welfare System.

Isolated Incident Typology

Isolated incident domestic battery is defined as an isolated event of aggression born out of atypical family or individual stress. Without such stress youth may have chosen a more appropriate conflict resolution. Family stressors may include events such as the death of a family member, sudden economic struggles, job loss, divorce, etc. Individual stressors may include social struggles, school or job difficulties, time-management, etc. In order to classify a youth into the isolated incident typology, the assessor must determine that there have been no more than two incidents of youth aggression toward a parent in the past twenty-four months.

A youth who commits an isolated incident of domestic battery typically has a parent who demonstrates a reasonable level of authority and encourages age appropriate maturity and behavior from the youth. Both the parent and youth may be surprised that the situation escalated to the point of aggression. The youth did not intend to harm his or her parent, understands his behavior was inappropriate, and is willing to change. Parent is primarily concerned that this type of behavior does not re-occur and may take some responsibility for the incident. The parent maintains authority by enforcing appropriate consequences.

Example: Jason is a straight A student who plays football and recently started high school. His first week of school consisted of getting up early to get to school on time, learning a new class schedule and finding his way around his new school, attending football practice after school and then doing homework late into the evening. One evening, Jason was playing video games when his mom came in his room to tell him to do his homework. Jason wanted to continue playing the game "to unwind"; Jason's mom grabbed for the controller and they began struggling over it. Jason's mom tripped over the ottoman and fell to the ground. Jason's brother called the police and Jason was arrested because his mom had a bruise on her arm. Jason's mom states that she could have handled the situation differently. Jason was initially very embarrassed but admits he should have listened to his mom or negotiated with her for a few additional minutes of game time.

Family Chaos Typology

Family Chaos domestic battery is defined as a pattern of events in which the youth's behavior predictably spirals to the point of battery in order to obtain his purposes and is characterized by inconsistent and unclear parental authority. *

The lack of a consistent parental role can lead to mutual attempts to by the parent and youth to gain control of the situation at hand. The youth has learned a pattern of intensifying behavior to get what he wants and to temporarily usurp his parent's authority (asking ⇨ whining ⇨ pleading ⇨ arguing ⇨ name calling ⇨ shoving ⇨ hitting, etc.) Incidents of aggression rarely occur if the parent gives into the youth and once his goal is achieved, parental authority returns to status quo. Attempts by the parent to establish his or her authority frequently result in escalating arguments that *may* include aggressive behavior by both the parent and youth.

For families within the Family Chaos Typology, arguing and fighting are a common means of conflict resolution. Generally the families are not fearful of one another and at times can be resistant to change. Parents may want or need "system involvement" to help them parent. Youth may state that he wants to see the parents change first.

*It should be noted that many parents do not necessarily choose to be inconsistent or absent, but there may be other factors in play, such as job schedules, mental health or substance abuse issues, trauma, illnesses, lack of resources, etc.

Example: Ryan is a sixteen year-old boy who asked his mom if he could have the car on Friday night. Mom said "no" because she had received a note from school saying he was missing assignments and he couldn't have the car until the assignments were turned it. Ryan tried to negotiate with his mom saying he would complete the assignments over the weekend if she let him have the car. Mom continued to say "no." Ryan began yelling at his mom—"That's not fair; you let Andy (Ryan's brother) take the car last weekend and he was suspended." Ryan responded by calling his mom an idiot to which she replied, "You're a bigger idiot; now you'll never get the car." Ryan grabbed the keys out of his mom's hand, shoved her and walked out the door. Ryan's little sister got scared and called the police. Mom told the police, "This happens all the time and I don't know what to do. You take him." When Ryan came home that evening, he asked his mom for money so he could take his girlfriend out on Friday so she gave him $20. Later, as a result of the police being called, Ryan was ordered to complete family counseling; his mother was upset and said it wasn't fair that she had to participate because he was the one who shoved her.

Escalating Typology

Escalating domestic battery is a pattern of behavior designed to intimidate, control and coerce the parent into giving into the youth's demands and ultimately to shift parental authority to the youth, effectively establishing the youth in a position of control over the parent.

The "Escalating Typology" is characterized by a range of behaviors and attitudes designed to result in a non-developmental and ultimately permanent shift from parental authority to youth control. The parent is able to identify a shift in youth's behavior as he begins to disregard family rules; ignores parent input and ignores or defies parent attempts at discipline. The youth demonstrates less and less tolerance for discipline and anger, responding more quickly with violence. Often, the youth will make unrealistic demands on the parent and his punitive behavior toward the parent is increasingly harsh when demands are not met Parental attempts to influence the youth will decrease and eventually stop because of fear of repercussions.

Early in the shift from parental authority to youth control, the youth may be ambivalent toward the use of violence, knowing that it is wrong and not wanting to hurt his parent. But as violence proves to be effective, his attitude begins to change until violence becomes the preferred response. The parent is fearful for the family's physical safety as the violence may be worsening in both frequency and severity.

Example: Bobby was a 17 year-old boy who lived with his mother. His parents divorced when he was young and he visited his dad on occasion. Bobby's mom described his childhood as pretty normal with family vacations, attending church, neighborhood friends, etc. Bobby's mom said this all began to change when Bobby went to seventh grade. He began to refuse to go to school and it became more and more difficult to get him to go. The harder mom would try, the angrier he got. He stopped spending time with his mom and rarely came home until late at night. When his mom asked him where he had been, he told her "Shut up, it's none of your business," and shoved her out of his way. Later, he told a family friend, "I know I shouldn't treat her like that but she gets all up in my business and I just want her to leave me alone." Bobby's behavior continued to worsen, with more and more aggressive episodes. One evening, when he was a sophomore in high school, Bobby's mom came into his room to tell him his dad was on the phone. Bobby jumped up off his bed and began screaming at his mom, "Get out, I've told you never to come into my room." He grabbed her by the neck and threw her down the stairs. Fearing for her physical safety, she called the police and Bobby was arrested.

DETERMINING THE PROGRESSIVE NATURE OF THE ADB TYPOLOGIES

Once a youth has been classified into a typology, the question becomes, "Based on subsequent behavior, can a youth's typology change?" The development of the ADB typologies combined both progressive and non-progressive characteristics of the different typologies. Some youth may progress from one typology to a more serious typology while others will not. The typology graph was not created as a continuum, but as separate, distinct categories of ADB. However, in light of the malleable nature of adolescent development, a youth's typology may change over time. Factors to consider when determining the potential progressive nature of the typologies:

1. **Not all ADB is progressive.** For example, a youth identified as "family chaos" may continue into adulthood as "family chaos" and may, in fact, raise another generation of youth with similar, but not worsening, behaviors. It is also possible for a youth identified in the "family chaos" category to begin to choose more appropriate conflict resolution strategies as he or she matures. In these examples, the distinction between "non-progressive" family chaos and escalating ADB categories is the critical concept behind the typologies: *Not all youth who commit ADB will grow up to commit acts of intimate partner violence as an adult.*

2. **The typologies differ in level of severity.** The problematic nature of the typologies escalates from left to right on the ADB Typology Graph. This is with the understanding that defensive ADB is purely protective and therefore would not fall neatly on a continuum. Isolated ADB would be less problematic than Family Chaos, which would be, in turn, less problematic than Escalating ADB.

3. **When ADB does progress, it is not along a set path.** For example, a youth would not *have* to pass through "family chaos" to reach Escalating.

4. **There is a distinction between an "isolated incident" and an "early incident".** The assessor should not determine that the youth falls into the isolated category solely because the aggression had never or rarely occurred before. Early incidents of what is to become "escalating" ADB will have similar frequencies (scope) as the isolated typology but the remaining domains will more closely match those of the escalating typologies.

   The likelihood that a youth might progress to a more serious typology is assessed, in part, with the Progression Risk Score (PRS). The Progression Risk Score looks at the range of behaviors only within the Escalating Typology domains. The behaviors within each domain are rated by a Likert scale from "0" to "4" with a total range between "0 to 32". The validation study indicated the higher the PRS score, the higher the likelihood youth will receive a petition for a new ADB offense, regardless of the typology to which the youth was assigned (see Chapter 8). A high PRS will help determine an early incident from an isolated incident.

5. **In order for youth to change typologies, there must be a *non-developmental shift* in parental authority.** (See "Domain 2 Parental Authority" on page 21)

THE ADBTT DOMAINS

The ADBTT is comprised of eight domains. Not every typology will contain a response from every domain. In order to accurately assign a youth to one of the typologies, the assessor must have a careful understanding of these domains.

Domain 1: Scope of ADB
Domain 2: Parental Authority
Domain 3: Predictability of Event
Domain 4: Triggers to Violence
Domain 5: Behavioral Intent
Domain 6: Youth's Attitude toward Violence
Domain 7: Youth's Attitude toward Change
Domain 8: Parent's Concern

Domain 1: Scope of ADB

The intensity and frequency of incidents of ADB are crucial in determining not only the youth's typology, but also in determining what type of treatment should be put into place. If the assessor determines that the frequency and intensity is increasing or has reached a harmful threshold, safety planning should occur in accordance with the agency's policy and procedures.

ADBTT "SCOPE of ADB" ITEMS AND DEFINITIONS:

Domain 1 SCOPE OF ADB **Check the box next to the option(s) that best fits.**			
■ Defensive	☐ Isolated Incident	■ Family Chaos	☐ Escalating
This option was scored in Question #1. Do not count this box as checked	***Isolated/infrequent (<3 in past 24 monthsincidents); Incidents are not "ONLY" in response to a physical threat*	*There is no option available for this typology. Do not count this box as checked.*	Frequent (3 or more in past 24 months) and serious incidents; Incidents are not ONLY in response to a physical threat

Domain 1 PRS Scale Rate "Scope of ADB" on a scale of zero to four. Enter score in the box.

0	1	2	3	4	PRS SCORE
Defensive/Isolated incident OR behavior is not worsening	Threats or aggressive incidents by youth are beginning to increase in frequency and severity			Youth demonstrates an established pattern of frequent and severe aggression; at least one incident required medical attention	

Purpose: To determine the pattern of aggressive behavior and to see if it is worsening in terms of frequency and intensity. Assessor should ask for family to report, but can also use collateral information such as police reports and clinical impressions.

According to factor analytic results (see Chapter 7) the Defensive and Family Chaos typologies do not have a measurable pattern of severity or scope and therefore, are not scored in this domain.

Isolated Incident: **Isolated or infrequent incidents (less than 3 incidents in the past 24 months); Incidents are not "ONLY in response to a physical threat."**

Definition: Incident occurs infrequently (less than 3 incidents in the past 24 months). Incident(s) must not be solely a defensive act against a parental threat; otherwise, incident(s) would be scored in the defensive typology.

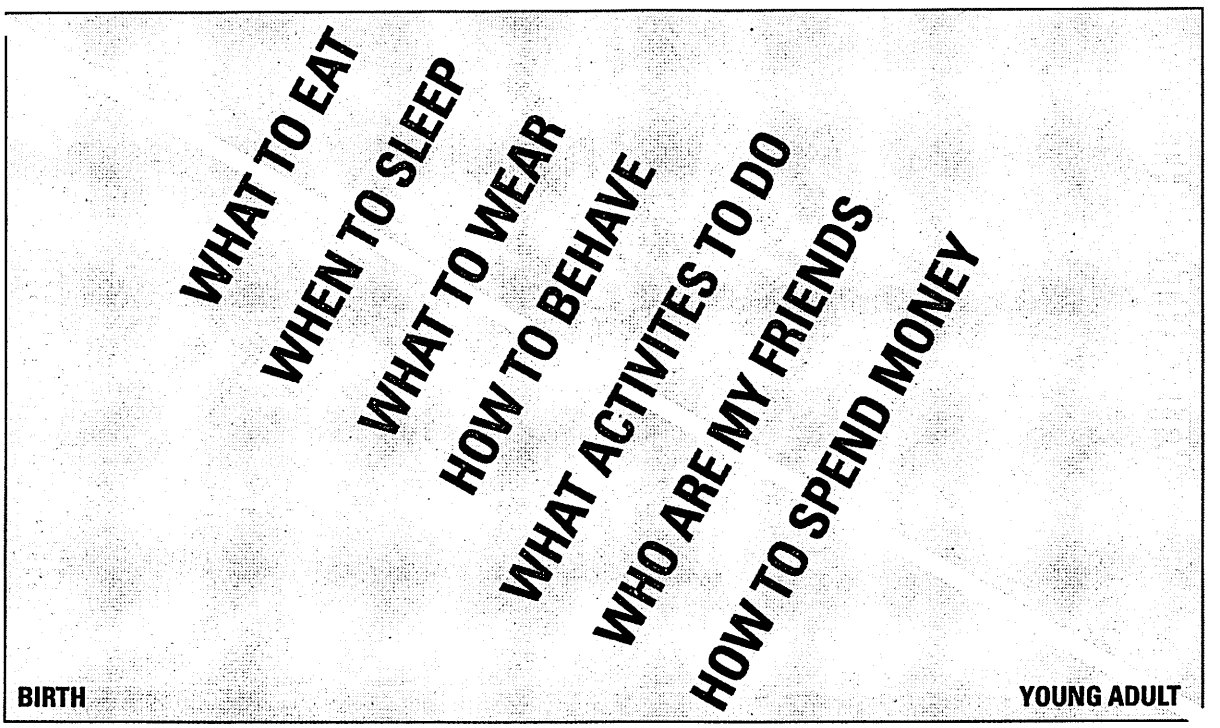
Escalating: **Frequent (three or more incidents in the past 24 months) and serious incidents; Incidents are not "ONLY in response to a physical threat."**

Definition: Three or more incidents of youth aggression toward parent in the past 24 months; incidents are not "only in response to physical threat by parent". Parent is at risk of harm.

Suggested Interview Questions to assess Scope of ADB

- Has this ever happened before? Describe previous events.
- If yes, how often does this happen?
- Were there ever visible marks?
- Did victim ever need to go to the emergency room?
- Was the youth ever the victim or witness of aggression?
- Does the aggression always have the same victim/perpetrator?

Domain 2: Parental Authority



When an infant is born, a parent or caregiver has almost 100% control or authority over the baby's life. The parent decides what the child will wear and eat, who will be introduced to the child, where he goes and to some extent even when the child will be awake or asleep. Through these and future decisions, the parent begins to communicate a set of expectations he has for the child's behavior.

As the baby begins to grow, he learns that he has some influence into his parent's behavior. He can cry to indicate that he is hungry, turn his head away to indicate he is full or that he does not like his food, etc. As a toddler, the child begins to choose his own clothes; a kindergartener may decide who his friends will be; a ten year old may decide what activities he wants to do, etc. In addition, a parent can allow the child to influence family decisions, such as what movie to watch, what restaurant to go to, where they might go on vacation, etc. As the child learns to make choices in line with his parent's expectations, he is given more decision-making opportunities. A typical pattern of development shows a gradual reduction of parental authority, as the child is able to make an increasing number of appropriate decisions for himself. It is important to note that timing and choices will differ from family to family but the overall pattern remains.

When social and cultural norms regarding parental authority are disrupted, various patterns of authority with unique characteristics begin to emerge. **Correctly assessing "Parent Authority" within the context of the youth's age and maturity, is a critical step to accurately identifying the adolescent's typology. The characteristics of parental authority significantly define the typologies themselves.**

ADBTT PARENTAL AUTHORITY ITEMS AND DEFINITIONS:

Domain 2 PARENTAL AUTHORITY **Check the box next to the option(s) that best fits.**					
☐ Defensive	☐ Isolated Incident		☐ Family Chaos		☐ Escalating
Parent demonstrates developmentally unreasonable level of authority (authoritarian)	Parent demonstrates developmentally reasonable level of authority (authoritative)		Parental authority is inconsistent or unclear		Parental authority is shifting or has shifted to youth
Domain 2 PRS Scale Rate "Parental Authority" on a scale of zero to four. Enter score in the box.					
0 Parental authority is not shifting or has not shifted to youth	**1** Parental authority is becoming ineffective and control is shifting to youth	**2**	**3**	**4** Youth demonstrates unreasonable level of control/decision-making over parent; parent has no influence over youth	**PRS SCORE**

Purpose: To determine the characteristics of the existing level of parental authority between Parent and Youth. Assessor should look at patterns of interactions between the parent and youth, not just at the precipitating incident of aggression.

For Domain 2 "Parental Authority" the assessor needs to determine not only how the youth acted at the time of the incident, but more importantly, how the youth generally acts. The assessor must determine is this his usual pattern of behavior or is this unusual. For this domain, the assessor can ask about other behaviors, not just aggression.

Defensive: **Parent demonstrates developmentally UNREASONABLE level of authority (authoritarian)**

Definition: Parental authority is rigid and unchanging over time. The parent attempts to maintain an unreasonable level of control over the youth and family by making the majority of household decisions while ignoring the input of others within the home, including the youth. Parenting style is considered authoritarian. The parent(s) may have unrealistically high expectations for youth with harsh, often corporal consequences when expectations are not met

Isolated Incident: **Parent demonstrates developmentally REASONABLE level of authority (authoritative)**

Definition: Parental authority most closely follows the societal norm—a gradual reduction of parental authority as the youth demonstrates the ability to make appropriate decisions for himself. Parenting style is considered authoritative. The parent requires age-appropriate maturity and behavior from the youth and communicates these expectations clearly. The parent has final say about decisions affecting the family but allows the youth to have input and encourages autonomy. An "isolated incident" of aggression would be a rare breech of parental expectations, usually caused by undue stress on the youth or family. The parent maintains his or her authority by providing an appropriate consequence for the aggressive behavior.

Family Chaos: **Parental authority is inconsistent or unclear**

Definition: Parental authority is inconsistent or non-existent. At times the parent seems to be in control, at other times, the youth seems to be in control, and sometimes no one appears to be in control. The parent has low or unclear standards for the youth's behavior and maturity and makes sporadic or inconsistent attempts to discipline, enforce rules or set limits. Consequences are inconsistent with minimal follow-through. The youth may be given opportunities to influence family decisions but these decisions result in frequent arguments. In most cases, Family Chaos aggressive behavior is the youth's attempt to temporarily usurp the parent's authority in order to get what he wants. After the youth achieves his purpose, parental authority returns to "status quo" until the next time. In the case of families in which the parent is physically or emotionally unavailable, Family Chaos aggression may be the youth's attempt to engage the parent long enough to get what he wants.

Escalating: **Parental authority is shifting or has shifted to youth**

Definition: Parental authority is usurped as youth exhibits a range of behaviors and attitudes designed to create a non-developmental and ultimately permanent shift in control from parent to youth. In the early stages of the shift, the youth begins to challenge his parents' rules and influences, for example, waiting longer to comply with requests, coming home later and later after curfew, refusing to do chores he had previously done, etc. Once the shift of control is complete, the youth does not recognize any authority in the home except for himself. The youth makes all of his decisions for himself with no regard for his parent's feelings or input. As a result, the parent is no longer able to effectively influence the youth's behavior or decisions. Parental attempts to influence the youth will decrease and eventually stop because of fear of repercussions. Often, the youth will make unrealistic demands on the parent and his punitive behavior toward the parent is increasingly harsh when demands are not met. Escalating aggression is a pattern of behavior designed to intimidate, control and coerce the parent into doing what the youth wants.

Suggested Interview Questions to assess Parental Authority

a. What are the "rules" in your house? (Actual rules and unspoken rules)
b. What happens when "rules" are broken or expectations are not met?
c. Does the youth comply with discipline?
d. Does the parent follow through with discipline?
e. Who makes decisions about family events, like where to go out to dinner or what to do on vacation or what TV show is on?
f. How has parenting changed from when the youth was younger?
g. What happened after this particular incident?

Domain 3: Predictability of event

The family's ability or inability to predict the event allows the assessor to assess not only the pattern of physically aggressive behaviors but also to assess whether other issues may be occurring. A parent may say, "I saw this coming—he has been more and more agitated lately." Or, the parent may be shocked because it has never happened before. The youth may be surprised by how quickly he reacted—"I must have blanked out because all I remember is talking to my mom about my grades and the next thing I knew, I had punched her." These types of details help the assessor determine how to score this domain and also open the door to ask about what else might be going on.

The assessor can also use the family's responses to this item to determine if the responses are congruent with other items on the test. A family may say they are not surprised by the incident but insist it has never happened before.

It should be noted that this domain is the most time-sensitive item on the ADBTT. Frequently the parent or youth will disagree about how the other party reacted especially if a significant time has passed between the incident and the screening.

ADBTT "PREDICTABILITY OF EVENT "ITEMS AND DEFINITIONS:

Domain 3 PREDICTABILITY OF EVENT **Check the box next to the option(s) that best fits.**					
■ Defensive	☐ Isolated Incident		☐ Family Chaos		☐ Escalating
There is no option available for this typology. Do not count this box as checked.	Both parent and youth may be surprised that situation deteriorated to point of violence		Neither parent nor youth is surprised by the predictable pattern/intensity of youth's increasingly aggressive behavior; parent not living in fear		Neither parent nor youth is surprised by aggression; may or may not be surprised at the intensity of the aggression; parent is increasingly fearful
Domain 3 PRS Scale Rate "Predictability of Event" on a scale of zero to four. Enter score in the box.					
0 Parent is not fearful	**1** Both express surprise at intensity; parent is beginning to be fearful	**2**	**3**	**4** Neither is surprised by intensity; parent lives in constant fear	**PRS SCORE**

Purpose: To determine if family perceives youth's aggressive behavior as congruent with youth's overall patterns of other behaviors and to determine if family's reaction is congruent with their expressed concern over the incident.

Domain 3, "Predictability of event" looks specifically at the incident that brought the youth to the attention of the juvenile justice system, but the way the family answers, gives the assessor insight into the pattern of events.

Defensive: **The defensive typology does not have a measurable pattern of predictability of events and therefore is not scored.**

Isolated Incident: **Both parent and youth may be surprised that situation deteriorated to the point of violence**

Definition: Both parent and youth are surprised by the incident because it has not happened before or has rarely happened before.

Family Chaos: **Neither parent nor youth is surprised by the predictable pattern/intensity of youth's increasingly aggressive behavior; parent not living in fear**

Definition: Parent can describe youth's pattern of increasingly aggressive behavior that youth uses to get what he/she wants. (For example, asking ⇨ whining ⇨ pleading ⇨ arguing ⇨ yelling ⇨ shoving ⇨ hitting, etc.) Neither party is surprised by the youth's behavior. Parent may be fearful at the time of the incident but does not live in constant fear for his/her own safety.

Escalating: **Neither parent nor youth is surprised by aggression; may or may not be surprised at the intensity of the aggression; Parent is increasingly fearful**

Definition: Parent or youth are not surprised by the youth's aggression but may be surprised that the situation escalated as quickly as it did or that the intensity was more than was expected.

Suggested Interview Questions to assess Predictability of Event:
a. How did you feel when the incident was happening?
b. Did you see this coming? If so, what were signs?
c. What was your reaction when it was over?
d. How do you feel about the incident now?
e. On a scale of one to ten, how safe do you feel? How has that feeling changed?

Domain 4: Triggers to Violence

To assess "Triggers to violence" the assessor must determine what occurred to cause the youth to be aggressive. This is generally done by examining the sequence of events that led up to the aggression. While it may be easy to identify the trigger in one specific event, it is important that the assessor look for patterns by examining triggers to several events. Some triggers can be easily identified—"I asked him to take out the trash and he got mad." Others may be more difficult or less easily connected. "He seemed to be in a bad mood." The most obvious trigger for ADB will be a parental request ("take out the trash"), a response to parental discipline ("you are grounded and can't go out tonight") or a parental limit ("no, I will not buy you a $200 pair of shoes to play basketball with your friends.") The assessor should look beyond the single incident to decide if other triggers are factoring into the youth's response. For example, a youth may normally comply with his mother's requests, but he broke up with his girlfriend and was really upset that day.

Common triggers:

- Parental request, limit or discipline
- Stress at school or with friends
- Desire to be left alone
- Bad moods
- Physical trigger such as being tired or being hungry
- Being embarrassed in front of peers
- Being upset over own performance in sports, grades, etc.
- Feeling bad about oneself (appearance, weight, feeling lonely, etc.)
- Loss or illness of a loved one
- Other traumatic events (parents' divorce, death of a loved one, health problems, financial stress, etc.)
- Physical or verbal aggression toward the youth

ADBTT "TRIGGERS TO VIOLENCE" ITEMS AND DEFINITIONS:

Domain 4 TRIGGERS TO VIOLENCE **Check the box next to the option(s) that best fits.**					
☐ Defensive	☐ Isolated Incident			☐ Family Chaos	☐ Escalating
Violence is protective and in response to physical threat by parent	Response to atypical stress without which incident would not have occurred			Response to inconsistent parental discipline, request or limit	Overall pattern shows lessening tolerance for anger and frustration
Domain 4 PRS Scale Rate "Triggers to Violence" on a scale of zero to four. Enter score in the box.					
0 Youth's trigger does not fall on the continuum	**1** Response to parental discipline, request or limit with which youth would have previously complied	**2**	**3**	**4** No trigger necessary, unpredictable pattern	**PRS SCORE**

Purpose: To determine what caused the youth to engage in domestic battery. In order to accurately rate this item, the assessor may have to look at a number of incidents of aggressive behavior (if more than one), to determine patterns and choose the answer that most closely fits.

Defensive: **Violence is protective and in response to physical threat by parent**

Definition: Incident occurred when youth felt physically threatened by parent. Youth is acting to protect self or other family members, or in response to an ongoing pattern of parental aggression.

Isolated Incident: **Response to atypical stress without which incident would not have occurred**

Definition: Incident occurred when youth and/or family was under atypical stress. Atypical stress can include the occurrence of an unusual event (e.g., death in the family, divorce of parents, job loss, etc.) or an unusual number of normal

stressors at one time (e.g., financial issues, school issues, full schedules, etc.). Without this additional stress, the family agrees the situation would have been resolved differently. It is important to remember that the parent's/youth's definition of stress can be different but both should be considered valid.

Family Chaos: **Response to inconsistent parental discipline, request or limit**

Definition: Incidents almost always occur as a response to a parental request, boundary or discipline. Usually the incident occurs when the parent requests the youth to do something the parent wants to be done or denies the youth permission to do something the youth wants to do. Often, the parent has been inconsistent when setting limits or enforcing discipline in the past. The family agrees incidents rarely occur if the parent gives in to youth demands.

Escalating: **Overall pattern shows lessening tolerance for anger and frustration**

Definition: Incident may occur as a response to parental request, boundary, or discipline or may have an unrelated trigger, i.e. breakup with a girlfriend, trouble at school, etc. or even an unidentifiable trigger. Youth is reacting to frustration and anger more quickly and more aggressively than he has in the past.

Suggested Interview Questions to assess Triggers to Violence

a. What does parent/youth think caused the event?
b. Describe the sequence of events that led up to this particular incident.
c. If applicable, describe the sequence of events that led up to prior incidents.
d. Describe typical sequence of events that instigate arguments in the family or that occur when there is a disagreement between parent and youth.
e. Do parent and youth agree about sequence of events?
f. Describe situations when conflict does not lead to aggression.
g. On a scale of one to ten how stressed do you think you are normally, the day of the incident, now...?

Domain 5: Behavioral Intent

The question behind behavioral intent is simply to understand what the youth hoped to accomplish by using aggressive behavior. Was the youth acting impulsively or had he considered the consequences of his actions? Was the youth attempting to "get something" or to control his parent's behavior? Was the youth attempting to engage his parents or make them go away?" One way to assess for intent is to carefully examine what happened immediately following the event. Did youth go into his room and shut the door or did he continue to follow his parent around? What did the parent do?

ADBTT "BEHAVIORAL INTENT" ITEMS AND DEFINITIONS:

Domain 5 BEHAVIORAL INTENT Check the box next to the option(s) that best fits.					
☐ Defensive	☐ Isolated Incident		☐ Family Chaos		☐ Escalating
Attempt to protect self or other family members	Impulsive, immediate remorse; no intent to harm		Pattern of increasingly aggressive behavior will stop once youth gets own way, no intent to harm		Pattern of behavior designed to intimidate or control in order to seize parental authority; will harm if necessary
Domain 5 PRS Scale Rate "Behavioral Intent" on a scale of zero to four. Enter score in the box.					
0 Youth's behavioral intent does not fall on the continuum	**1** Youth is struggling to get what he wants and attempts to use intimidation to take over parental authority	**2**	**3**	**4** Behavior establishes coercive control over parent; deliberate with intent to harm	**PRS SCORE**

Purpose: To determine what motivated the youth to engage in domestic battery and what outcome he/she was trying to achieve.

Domain 5 "Behavioral Intent" depends on examining multiple incidents and looking for patterns: Is there a common theme as to what the youth is trying to accomplish?

Defensive: **Attempt to protect self or other family members**

Definition: Youth's behavior is to protect self or other family members from a real or perceived threat of harm.

Isolated Incident: **Impulsive, immediate remorse, no intent to harm**

Definition: Youth's behavior appears impulsive or reactionary with no intent to harm. Youth is immediately remorseful.

Family Chaos: **Pattern of increasingly aggressive behavior will stop once youth gets own way, no intent to harm**

Definition: Behavior begins when youth perceives that he is not getting own way in regards to parental request, boundary, or discipline. Usually, the youth has no intent to harm, but to simply get what he wants. Escalation of aggressive behavior stops immediately if parent "gives in." (Temporarily shifts parental authority)

Escalating: **Pattern of behavior designed to intimidate or control parent in order to seize parental authority; will harm if necessary**

Definition: Youth uses intimidation and control tactics in an attempt to achieve his purposes and to permanently shift parental authority from parent to youth.

Suggested Interview Questions to assess Behavioral Intent:

a. What was youth hoping to achieve by using aggression?
b. Would aggression have occurred if youth had gotten own way earlier?
c. What else, if anything could have prevented the aggression?
d. What was the immediate behavior of youth and parent following the event?
e. What usually happens after an event like this?
f. Does/did youth demonstrate remorse? How?

Domain 6: Youth Attitude toward Violence

A youth who believes that the use of violence is appropriate is at a higher risk to commit a violent offense. The Office of Juvenile Justice and Delinquency Prevention (OJJDP) convened a study group to analyze research on risk and protective factors for serious and violent juvenile offending. One of the risk factors studied was "Belief and attitudes favorable to deviant or antisocial behavior." The group found that especially for boys, "dishonesty, antisocial beliefs and attitudes, attitudes favorable to violence, and hostility toward police have been found to predict later violence." Assessing a youth's attitude toward the use of violence not only helps to determine into which typology he will fit, but may also assist in determining the most appropriate intervention. (Hawkins et al., 2000)

ADBTT YOUTH ATTITUDE TOWARD VIOLENCE ITEMS AND DEFINITIONS:

Domain 6 YOUTH ATTITUDE TOWARD VIOLENCE **Check the box next to the option(s) that best fits.**					
☐ Defensive	☐ Isolated Incident		☐ Family Chaos		☐ Escalating
Believes violence is inappropriate but is justified in this incident	Believes violence is inappropriate and can identify more appropriate ways he could have resolved situation		Verbally acknowledges violence as inappropriate but is willing to use it again if less aggressive behaviors are not effective in achieving his purpose		Youth is beginning to consider or has decided that violence is appropriate
Domain 6 PRS Scale Rate "Youth Attitude toward Violence" on a scale of zero to four. Enter score in the box.					
0 Youth believes violence is inappropriate	**1** Is ambivalent about the appropriateness of violence but is experimenting with violence to see if it is effective	**2**	**3**	**4** Accepts violence as preferred response	**PRS SCORE**

Purpose: To determine whether or not the youth believes the use of violence is appropriate.

It is difficult to determine a youth's attitude toward violence from one incident, but the assessor should still look for patterns: In general, how does the youth feel about the use of violence? Does he use it across settings; is he remorseful?

Defensive: **Believes violence is inappropriate but is justified in this incident**

Definition: Youth believes use of violence is inappropriate. Youth can identify other ways to handle anger/frustration that he has personally used in the past and could use in the future. However, youth believes that this particular incident of violence was justified because youth felt threatened or felt a need to protect self or others.

Isolated Incident: **Believes violence is inappropriate and can identify more appropriate ways he could have resolved situation**

Definition: Youth believes use of violence is inappropriate. Youth can identify other ways to handle anger/frustration that he has personally used in the past and could use in the future. Youth believes he should have handled this incident differently and demonstrates remorse.

Family Chaos: **Verbally acknowledges violence as inappropriate but is willing to use it again if less aggressive behaviors are not effective in achieving his purpose**

Definition: Youth verbally acknowledges that violence is inappropriate, however will use it if he cannot achieve his purposes by other means. Youth may try other non-aggressive options but if he does not obtain desired results, behavior will continue to escalate until youth gets what he wants or needs.

Escalating: **Youth is beginning to consider or has decided that violence is appropriate**

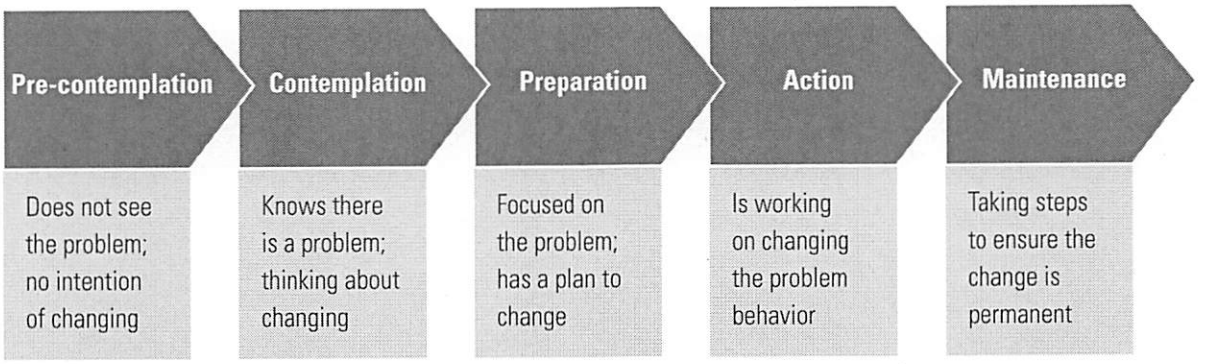
Definition: Youth is determining whether to use patterned violence as a means to achieve his purposes. The youth generally condones violence as a method for resolving problems.

Suggested Interview Questions to assess Youth Attitude toward Violence

a. Does being aggressive/violent get you what you want? Why or why not?
b. Are you ever violent or aggressive at school, work, with your friends, etc.?
c. Do you think being aggressive is ever justified? Under what circumstances?
d. How do you (youth) feel about hitting your parent (or friend) or (someone else)?
e. If you had it to do over, what (if anything) would you do differently?
f. Can you think of other ways you could have handled this?
g. If you saw one of your friends being aggressive/violent, what would you do/say/feel?
h. If one of your friends saw you being violent, what would they have said?

Domain 7: Youth Attitude toward Change

DiClemente and Prochaska (1982) developed a five-stage model of change based on observations of how people attempted to change addictive behaviors such as drinking, smoking and over-eating. The "Stages of Change" became the foundation for Transtheoretical therapy that has been applied to a variety of problematic behaviors.



(adapted from the Transtheoretical Model of Change by Prochaska and DiClemente, 1982)

Assessing the youth's readiness or resistance to changing his behavior is not only beneficial for determining the typology, but also to determine what interventions will be the most effective. According to Norcross, et al., (2013), the most efficient method to assess readiness to change is to ask a simple series of questions. For example, 'Do you think behaviour X is a problem for you now?' (if yes, then contemplation, preparation, or action stage; if no, then maintenance or pre-contemplation stage) and 'When do you intend to change behaviour X?' (if some day or not soon, then contemplation stage; if in the next month, then preparation; if now, then the action stage.)"

ADBTT YOUTH "ATTITUDE TOWARD CHANGE" ITEMS AND DEFINITIONS:

Domain 7 YOUTH ATTITUDE TOWARD CHANGE **Check the box next to the option(s) that best fits.**					
☐ Defensive	☐ Isolated Incident		☐ Family Chaos		☐ Escalating
Youth hopes he won't have to repeat but may do so in response to a perceived threat	Believes own behavior was wrong and is willing to change (preparation/action stage)		May believe own behavior is wrong but states he is only willing to change if parents change their behavior		Resistant toward changing behavior
Domain 7 PRS Scale Rate "Youth Attitude toward Change" on a scale of zero to four. Enter score in the box.					
0	**1**	**2**	**3**	**4**	**PRS SCORE**
Aggression was solely protective OR youth is willing to change	Unsure if own behavior needs to change; may believe it is wrong but knows he may repeat because it is effective (contemplation)			Unwilling to change behavior; believes own behavior is acceptable and preferred (pre-contemplation)	

Purpose: To determine whether the youth believes he needs to change his behavior. The assessor should attempt to determine whether the youth demonstrates a willingness to change (contemplation, preparation, action) and is not simply saying that he is willing to change for the purpose of the interview (pre-contemplation).

Defensive: **Youth hopes he won't have to repeat but may do so in response to a perceived threat**

Definition: Youth believes his behavior was the right response given the circumstances because he did not believe he had other options by which he could protect himself or other family members. Youth hopes that he will not have to repeat his behavior, but if in the future, youth were to feel threatened by parent, youth believes repeating his aggressive behavior would be justified.

Isolated Incident: **Believes own behavior was wrong and is willing to change (preparation or action stage)**

Definition: Youth believes his aggressive behavior was inappropriate and needs to change in the near future. Youth is willing to consider and use other more appropriate ways to resolve conflict. Youth accepts responsibility for behavior.

Family Chaos: **May believe own behavior is wrong but states he is only willing to change if parents change their behavior (contemplation)**

Definition: Youth believes that he needs to change behavior but will not commit to change unless the parent(s) also commit to change. Youth may use parent's behavior as an excuse to continue his own behavior and avoid change.

Escalating: **Resistant toward changing behavior; believes own behavior is acceptable and preferred (pre-contemplation)**

Definition: Youth is not ready to commit to changing behavior because he is not convinced the negative consequences of his behavior outweigh the benefits.

Suggested Interview Questions to assess Youth Attitude toward Change

a. Do you think your aggression/violence is a problem for you?
b. Is being aggressive something you could change? Why or why not?
c. Do you think it is something you should change? Why or why not?
d. Is this something you want to change?
e. What do you think it would take to motivate you to change?
f. What do you think would help you change it?
g. When do you intend to change it?
h. What would be the benefits to changing?

Domain 8: Parent's Concern

In any case of domestic battery, **safety needs to take precedence over all other concerns**. If necessary, the assessor should assist the family in safety planning, at minimum, by instructing the family to call 911 and separate themselves from potential danger. If at all possible, the assessor should provide a referral to someone who can help the family create a safety plan that will include a prioritized written list of strategies and sources of support that families can use during times of conflict and emotional stress.

In addition to safety concerns, parents can have a variety of other concerns. These concerns may differ by typology and may be challenging for the assessor to identify. The assessor should listen to other statements the parent(s) make, actions immediately following the incident, what details the parent(s) stress, etc. These concerns may include:

- How do I keep this from happening again?
- What will people think of me as a parent?
- How do I re-establish myself in the parenting role?
- Will my child be punished for what he did to me?
- What will happen if this keeps getting worse?
- What will happen to my child if he continues to be aggressive?
- How do I get help dealing with my aggressive child?
- How much effort and resources can I afford to put into solving this problem?

ADBTT "PARENT'S CONCERN" ITEMS AND DEFINITIONS:

Domain 8 PARENT'S CONCERN **Check the box next to the option(s) that best fits.**					
☐ Defensive	☐ Isolated Incident		☐ Family Chaos		☐ Escalating
Wants to deflect responsibility for incident to youth; may want to see youth punished	Wants situation resolved/no ongoing concerns regarding safety; may take some responsibility		Desires to have someone else (JJ system) impact/influence youth; Parent does not want to be required to change		Parent is concerned for Personal or Family Safety/ Future
Domain 8 PRS Scale Rate "Parent's Concern" on a scale of zero to four. Enter score in the box.					
0 Parent does not have any concerns about safety	**1** Expresses some concerns about safety but mostly anxious for youth, family, and own future if behavior continues	**2**	**3**	**4** Constant and over-whelming fear for personal and family's safety.	**PRS SCORE**

Purpose: To determine what the parents' concern is regarding the incident and/or pattern of their child's domestic battery. In addition to parents' expressed concern about safety, the assessor must try to determine the parent's other concerns.

Parents' concern can be examined over a series of incidents and over a period of time. For example, parent may say, "I was scared at the time, but now I am more worried about what might happen to my kid."

Defensive: **Wants to deflect responsibility for incident to youth; may want to see youth punished**

Definition: Parent deflects own responsibility for incident to youth to protect self from blame. Wants the "system" to take parent's point of view and punish the youth.

Isolated Incident: **Wants situation resolved/no on-going concerns regarding safety; may take some responsibility for incident**

Definition: Parent would like to resolve the issue, while ensuring that it does not repeat. Parents do not have on-going concern for own safety. Parent may take some responsibility by saying "I should have/could have handled it differently."

Family Chaos: **Desire to have someone else (JJ system) impact youth/influence youth; Parent does not want to be required to change.**

Definition: Parent would like someone else (possibly the Juvenile Justice system) to establish authority over and affect change in the youth. Parent may want immediate support in own parental role but is resistant to being held accountable for changing his own behavior.

Escalating: **Personal or Family Safety/Future**

Definition: Parent's primary concern is for personal safety or for the safety of the family. Parent is concerned about what will happen to the family if youth's behavior does not change. As youth's behavior becomes more extreme, parent may have developed a strategy about what to do if the behavior occurs or what to do to prevent the behavior (safety planning).

Suggested Interview Questions to assess Parent's Concern

a. What bothers you most about the situation that occurred?
b. What, (if any) safety plans have you made?
c. If it were to happen again, what would you do?
d. What do you think should happen to your child now?
e. Would you be willing to participate in a program to help your child?
f. Have you talked to anyone else about your child's behavior?

CHAPTER 3: Scoring the ADBTT

GENERAL INSTRUCTIONS FOR GATHERING INFORMATION

The ADBTT (see Appendix B) is comprised of eight domains with a Progression Risk Score (PRS) associated with each domain. Each domain is separated into four unique options that are characteristic of the different typologies of domestic battery. The assessor must determine which option best describes the youth and his/her family. The assessor further evaluates the youth and family by placing their behaviors, attitudes and concerns along a continuum, creating a PRS. The domains and the PRS are scored according to the clinical impressions and judgment of the assessor based on information garnered through interviews with the youth and parent as well as any collateral information.

Collateral information can be gathered from a variety of sources including police reports, criminal and social histories, and history of involvement with the child welfare system. In addition, the ADBTT may be supplemented with mental health screening, drug and alcohol screening, and screening of trauma-related symptoms as resources permit.

The primary source of information, however, will come from the interviews with the youth and parents or caregivers. Ideally, the interview process should occur in three parts: interview with the youth, interview with the parent and a joint interview with the youth and parent. If it is not possible to do a joint interview, separate interviews can suffice. **If either the youth or the parent is unavailable, the ADBTT should be considered incomplete and any results viewed with caution.** As noted in Chapter One, the timing and location of the interview process can vary by jurisdiction but the earlier in the process the better. Earlier assessments have a greater chance of impacting diversion decisions.

The inclusion of parents/caregivers is integral to the process of completing the ADBTT. In addition to providing information about the referring incident, they are also in a position to provide both historical and dynamic information about the youth's patterns of violence and behavior. Having both a youth and their parent/caregiver account, together with the other available information, provides for the most accurate representation of the level of both risk and need. Basing the ADBTT scoring on the youth's self-report alone is likely to be skewed. Moreover, some items of the tool are scored based on the parents' concerns, which would be difficult to discern without a parent interview.

When completing the ADBTT, the assessor needs to be aware that scoring the domains and the Progression Risk Scores requires him or her to assess the youth's *patterns* of behavior. With the exception of Domain 3, "Predictability of Event", each domain should be scored by examining multiple incidents, events or scenarios. The assessor should look for patterns of behavior, attitudes, concerns, relationships, etc., in order to most accurately assign the youth's typology. Make sure your agency has safeguards in place to keep information the youth and family gives you about prior incidents confidential (within any legal or ethical limits).

While the ADBTT is not simply a list of questions that the assessor asks the youth and the parents, this manual does include some "Suggested Interview Questions" in both Chapter 2 and in Appendix C. These examples demonstrate the type of questions the assessor might use in order to make a clinical judgment regarding the domains and the PRS. The assessor is able to use his own questions as appropriate and is not required to get answers to all of the suggested questions.

If there are discrepancies between the youth and parents' reports these discrepancies should be resolved during the joint interview. If discrepancies cannot be resolved, the assessor should score the ADBTT based on the most reliable and credible source.

HANDLING ISSUES THAT ARISE

The utilization of the ADBTT and the accompanying clinical interview and screening process may result in increased disclosure of acute youth or family situations. Although, this is certainly aligned with the general purpose of any effective juvenile justice intake process, the more intensive nature of this process can also provide more revelations than a more cursory intake process. Issues that will likely arise include mental health and substance abuse issues, neglect or dependency indications, health issues and evidence of child physical/sexual abuse. Additionally, a clear ongoing threat of violence to family members, or others, may be discernable. Most of these situations already have clear responses stipulated in local policy and protocol for intake interviews.

When closely screening for violence/abuse/trauma patterns, the assessor may encounter cases where they may need to provide for, or arrange for, an immediate crisis de-escalation or response. There should be clear protocol developed for whom to contact in these situations when using the ADBTT process, and a basic level of crisis de-escalation training provided to all assessors.

As stated in previous sections, there is also the risk of discovering the occurrence of ongoing abuse, which would require an immediate report to the local child welfare agency by the assessor who is likely to already be a mandated reporter.

INSTRUCTIONS FOR COMPLETING THE ADBTT

The ADBTT process probes into some very sensitive areas in the lives of youth and families entering the system after a family violence event. As such, it is critical that the process be presented in as non-threatening, cohesive, and professional a manner as possible. Sites using the tool should develop both a "script" for the assessors to follow as well as set of clinical interview questions to be used as guide to access information (see Chapter 2 and Appendix C for "Suggested Interview Questions"). These tools are best devised locally to meet the specific need of your population and to take into account local standards and practices. We recommend an introductory script using the structure outlined below.

1. Read the script introducing the ADBTT.

Script: To the youth and parent(s): *"I am going to ask you some questions that will help us to better understand what has happened with your family to plan the appropriate services and action for you. This will require that I have some time to speak with both of you separately and then I would like to speak with both of you together."*

2. Review the limits of confidentiality as per standards in your jurisdiction and provide any other details as to how the information might be used.

3. Complete the client information. See next page.

ID# is the number your agency assigns to the youth

Name: John Carter DOB 2/11/00 ID#: 15-000234

Race: ☐ American Indian/Alaska Native ☐ Asian

☐ Black or African American ☐ Native Hawaiian or Other Pacific Islander

☒ White ☐ other

☐ Multiple Races ☐ Unknown

Ethnicity: ☐ Hispanic ☒ Non-Hispanic ☐ Unknown Gender: ☒ Male ☐ Female

Site: DuPage County, IL (Jurisdiction/County, State) Screening Setting: Youth Home (Detention, court, etc.)

Screener Name: John Smith Date of Screening: June 15, 2004

4. Answer *Question #1* regarding "violence in response to physical threat". *If the answer is "yes"*, follow the specific instructions indicated by the asterisk (*) in the question box. If the answer is "no" proceed to instruction #3.

Question #1: Has every incident of violence by the youth toward the parent, ONLY been in response to a physical threat by the parent? ☒ **Yes*** ☐ **No**

**If the answer is "yes" score only the Defensive items for the other domains. In each domain, check the Defensive box if it fits the youth and family. If it does not fit, do not check any domain boxes. Complete all the PRS Scales for every domain as well as the "Additional Instructions to Assign Typology and Calculate Risk Score" on page 4 of the ADBTT.*

EXAMPLE

Domain 2 PARENTAL AUTHORITY

Check the box next to the option(s) that best fits.

☒ Defensive	☐ Isolated Incident	☐ Family Chaos	☐ Escalating
Parent demonstrates developmentally unreasonable level of authority (authoritarian)	Parent demonstrates developmentally reasonable level of authority (authoritative)	Parental authority is inconsistent or unclear	Parental authority is shifting or has shifted to youth

Score this; check box if "Yes"; leave unchecked if "No."

Do not score these typologies. BUT complete the PRS scores on all the domains. (See #5 for instructions on how to complete PRS Score.

Parental authority is not shifting or has not shifted to youth	Parental authority is becoming ineffective and control is shifting to youth			Youth demonstrates unreasonable level of control/decision-making over parent; parent has no influence over youth

5. Each domain is scored based on information garnered through interviews with the youth/parent as well as any collateral information the assessor has. Refer to "suggested interview questions" in Chapter 2 of the manual. The scorer should choose the option that he feels is the most accurate description of the family based on his observations and knowledge, in addition to the family and youth's answers to his questions.

6. For each domain, check the box next to the option(s) that best fits the youth and his/her family. If the check box is blacked out "■", there is no option available for that typology. Do not check that box.

EXAMPLE

Domain 3 PREDICTABILITY OF EVENT
Check the box next to the option(s) that best fits.

■ Defensive	☐ Isolated Incident	☐ Family Chaos	☐ Escalating
There is no option available for this typology. Do not count this box as checked	Both parent and youth may be surprised that situation deteriorated to point of violence	Neither parent nor youth is surprised by the predictable pattern/intensity of youth's increasingly aggressive behavior; parent not living in fear	Neither parent nor youth is surprised by aggression; may or may not be surprised at the intensity of the aggression; parent is increasingly fearful
Parent is not fearful	Both express surprise at intensity; parent is beginning to be fearful		Neither is surprised by intensity; parent lives in constant fear

Do not score this typology

Choose the option that best describes the family

7. Refer to the domain definitions provided in the manual to score the items as accurately as possible.

EXAMPLE

(Domain 3: PREDICTABILITY OF EVENT)

Family Chaos: Neither parent nor youth is surprised by the predictable pattern/intensity of youth's increasingly aggressive behavior; parent not living in fear

Definition: Parent can describe the pattern of increasingly aggressive behavior that youth uses to get what he/she wants. (For example, asking>whining>pleading>arguing>yelling>shoving>hitting, etc.) Neither party is surprised by the youth's behavior. Parent may be fearful at the time of the incident but does not live in constant fear for his/her own safety.

8. If no option appears to fit, or if more than one option appears to fit, follow these instructions:
   a. Refer back to the definitions for clarification.
   b. Ask the youth or family member additional questions. (See "Suggested Interview Questions" in the Chapter 2 of the manual).
   c. Example for Predictability of Event:
      - How did you feel when the incident was happening?
      - What was your reaction when it was over?"
   d. Choose the option that most closely fits.
   e. If no answer is close, leave that domain unchecked, but score the PRS as accurately as possible.

f. If the assessor still believes that the options fit the family equally, he can choose both, but it is less desirable than choosing one. The assessor should be careful not to choose contradictory options.

9. The Progression Risk Score (PRS) measures the likelihood that a youth will commit another ADB or could move to a more serious typology. The PRS looks at the range of behaviors within the Escalating Typology domains but is scored for each domain even if the Escalating Typology was not chosen.

10. In the gray "PRS Scale" box under each domain item, rate the domain on a scale of "0" to "4" according to the description that best fits the youth and his/her family. Each item defines the "0", "1", and "4" ratings. The "2" and "3" ratings are intentionally undefined so that the assessor can rate answers that may fall between the two extremes. Provide a PRS score even when scoring the domain is not possible (e.g., the check box is blacked out), or no typology definition fits the youth/family.

EXAMPLE

Domain 3 PREDICTABILITY OF EVENT
Check the box next to the option(s) that best fits.

■ Defensive	☐ Isolated Incident	☐ Family Chaos	☐ Escalating
There is no option available for this typology. Do not count this box as checked	Both parent and youth may be surprised that situation deteriorated to point of violence	Neither parent nor youth is surprised by the predictable pattern/intensity of youth's increasingly aggressive behavior; parent not living in fear	Neither parent nor youth is surprised by aggression; may or may not be surprised at the i of the aggression is increasingly fearful

PRS

Domain 3 PRS Scale Rate "Predictability of Event" on a scale of zero to four. Enter score in the box.

0	1	2	3	4	PRS SCORE
Parent is not fearful	Both express surprise at intensity; parent is beginning to be fearful			Neither is surprised by intensity; parent lives in constant fear	2

Choose the option that best describes the family. Enter the number in the box.

11. Once all domains and PRS Scales have been completed, follow instructions #11 through #15 on the last page of the ADBTT.

12. Count the number of items that are checked in each of the typologies: Defensive, Isolated Incident, Family Chaos and Escalating. (Do not count boxes that have been "blacked out".) Record "number of items checked" on the indicated lines.

Defensive items: 0 /6 **Isolated Incident Item:** 1 /8 **Family Chaos:** 2 /7 **Escalating:** 5 /8

13. Refer to the "Typology Scoring Table" to find the youth's score in each typology and enter them into the indicated boxes.

Typology Scoring Table					Typology Score
Domains Checked	**Defensive**	**Isolated Incident**	**Family Chaos**	**Escalating**	**Defensive** 0
0	0	0	0	0	
1	17	13	14	13	**Isolated Incident** 13
2	33	25	29	25	
3	50	38	43	38	
4	67	50	57	50	**Family Chaos** 29
5	83	63	71	63	
6	100	75	86	75	
7	-	88	100	88	**Escalating** 63
8	-	100	-	100	

14. Re-enter the answer to question #1 (from page 1 of the ADBTT) and answer question #2.

Question #1: Has every incident of violence by the youth toward the parent, ONLY been in response to a physical threat by the parent? (If "no," youth CANNOT be assigned to the Defensive typology.) ☐ **Yes** ☒ **No**

Question #2: Were there less than 3 incidents of youth aggression in a 24-month period? (If "no," youth CANNOT be assigned to the Isolated Incident typology.) ☐ **Yes** ☒ **No**

15. The youth is assigned to the typology with the highest score, unless otherwise indicated by the answers to #1 or #2. If the Defensive and/or Isolated Incident typologies are ruled out, then assign the youth to the typology with the next highest score. Check the box with the final typology assignment.

Final Typology Assignment				PRS SCORE TOTAL
☐ Defensive	☐ Isolated Incident	☐ Family Chaos	☐ Escalating	24

16. Add together the Progression Risk Scores (PRS) from the shaded boxes on pages 2 and 3. Enter the total (0 – 32) in the shaded box below. (Note: This is separate from the Typology Score)

CHAPTER 4: Responding to Typology Scores

MATCHING TYPOLOGIES WITH INTERVENTIONS

The ADBTT is designed to aid in dispositional and treatment planning by identifying youth at risk of reoffending violently in a domestic context. By assigning youth to distinct typologies, the ADBTT provides the basis for recognizing that youth who commit domestic battery are not all the same; they do not have the same risk level to reoffend and should be given different responses. The tool's classification methodology provides the foundation for a developing a structured framework to effectively match intervention level to risk level, thus providing a much greater likelihood for successful treatment outcomes. For example, a youth classified as an "isolated case" would not be appropriate for an intensive long term treatment program but would likely benefit from some form of educational programming through a diversion contract.

1. Two Cautions: Decisions about how to intervene with a youth and his or her family should not be based *solely* on the ADBTT. Other youth characteristics must be considered including additional screening as necessary, for mental health, substance abuse and trauma issues. Family needs and resources should also be considered.

2. Additional research is needed to match interventions to youth who have committed ADB. While the research behind the ADBTT included measuring the impact of interventions to recidivism rates, the results are not definitive.

System Responses:

Because every jurisdiction has its own set of responses, terminology and available resources, it is impossible to create a decision-making grid that will include every potential system response. The System Response grid is based on responses utilized in the state of Illinois and is an ***example*** of how the typologies could be matched to those responses. Each site will need to develop its own grid by employing risk levels, risk management principles and an understanding of dynamics of the typologies.

The System Response grid is not intended to recommend any system response that would be more intensive than would normally occur. Specific cases may at times defy the logic of the grid and must be evaluated individually as it is possible that the grid may overreact or underreact to any unique set of circumstances.

One System Response, not currently available in Illinois, but used successfully in other jurisdictions is the "Specialized Docket or Specialized Court." These courts differ from traditional courts in that they focus on one type of offense or offender. Usually the judge plays an intensive supervisory role. Other criminal justice components (e.g., probation) and social services agencies (e.g., drug treatment) are involved and collaborate closely in case processing. Specialized dockets for family violence fall under the scope of **Therapeutic Jurisprudence** to reduce **criminal offending** through therapeutic and interdisciplinary approaches that address the underlying issues without jeopardizing public safety and due process. Specialized dockets for ADB would be appropriate for Family Chaos and Escalating Types but would most likely be too intensive for the Isolated Incident category. Family cases within the Defensive Type would likely be heard in a child welfare jurisdiction court.

Recommended Juvenile Justice System Responses to ADB (Example only)				
System Responses to ADBTT	**Typologies of ADBTT**			
CRISIS RESPONSE	**Defensive**	**Isolated**	**Family Chaos**	**Escalating**
Crisis Intervention Safety/Screening and Planning	These services should be available for all typologies and should inform subsequent responses. May be done by police or other agency.			
ADB Assessment	If ADB assessment cannot be done at the point of crisis, it should be done as soon as possible.			
Referral to Child Welfare	Mandated by Illinois law	As indicated		
Respite/Shelter Care	If necessary; it should be a DCFS (child welfare) placement	Not likely to be necessary	If available	If available and only if no significant history of aggression
Detention	Not appropriate	Not appropriate	May be appropriate; override not recommended	May be appropriate; override as needed
POLICE RESPONSE (FOLLOWING CRISIS)	**Defensive**	**Isolated**	**Family Chaos**	**Escalating**
Family Generated Solution (no arrest)	May be appropriate; if DCFS is investigating or if family is receiving services elsewhere	Appropriate for first time offenders; based on parent's resources and request as well as youth attitude	Not appropriate	Not appropriate
Station Adjustment (S.A.)	May be appropriate; if DCFS is investigating or if family is receiving services elsewhere	Appropriate, (both informal and formal S. A.)	Formal S.A. only; requiring programmatic response	Not appropriate
Refer case to Probation	May be appropriate if it is the only way to get the family services	Appropriate if the family does not feel it has the resources to generate a solution	Appropriate	Appropriate
Referral for Treatment	As needed (If other agency is providing the crisis response, agency should offer or link family to follow-up services.)			
PROBATION/COURT SERVICES RESPONSE	**Defensive**	**Isolated**	**Family Chaos**	**Escalating**
Family Generated Solution (close case)	May be appropriate; if DCFS is investigating or if family is receiving services elsewhere	Appropriate for first time offenders; based on parent's resources and request as well as youth attitude	Not appropriate	Not appropriate
Mediation	Not appropriate	Appropriate	Appropriate if only other offenses are minor	Not appropriate
Informal Supervision (Diversion)	May be appropriate; if DCFS is investigating or if family is receiving services elsewhere	Appropriate, with or without requiring programmatic response	Appropriate only if requiring programmatic response	Appropriate only if requiring programmatic response
Continuance under Supervision	May be appropriate if it is the only way to get the family services	Appropriate, with or without requiring programmatic response.	Appropriate only if requiring programmatic response	Appropriate only if requiring programmatic response
Formal Supervision (Probation)	Not appropriate	Not appropriate, unless all attempts at diversion have failed	Appropriate if attempts at diversion have failed or if intensity of incident warrants it. Should include programmatic response.	Appropriate if attempts at diversion have failed or if intensity of incident warrants it. Should include programmatic response.
Residential Placement	Not appropriate	Not appropriate	Not appropriate	Only in extreme cases
Referral for Treatment	If case reaches Probation and Court Services, a referral for assessment for treatment is appropriate			

Treatment Responses:

Choosing a treatment response for each of the typologies presents a challenge to many jurisdictions. Jurisdictions must identify resources (time, money, staffing, etc.), collaborate with various agencies (usually the juvenile justice system as well as a community provider at a minimum) and choose a treatment program that will work within their system.

The Treatment Response Grid is not to be considered an exhaustive list of treatments; there may be other valuable programs that have not been included. A "recommended" treatment means that it should be considered as an option for that typology, not that it should be required for every youth categorized in that typology. "ADB specific" means that the treatment was designed to specifically address ADB or DV. "Non ADB specific" means that treatment is used to treat other issues or problematic behaviors but can be applied to ADB. A "Blended Response" is both a system response as well as treatment. Specialized dockets would fall into the "Blended Response" category.

Recommended Juvenile Justice Treatment Responses to ADB (system responses)				
Justice Trearment Responses to ADB	**Typologies of ADBTT**			
Non ADB Specific Treatment	**Defensive**	**Isolated**	**Family Chaos**	**Escalating**
Individual Counseling	Recommended, especially if youth has trauma issues; focus on coping skills	Usually not necessary unless youth demonstrates need based on other assessment	Not recommended to address domestic violence, unless paired with other services	Recommended, needs to be paired with services to support the family
Family Counseling	Not recommended unless abusive parent has received DV services prior to family counseling	Usually not necessary unless family requests or demonstrates need based on other assessment	Recommended	Recommended if it does not put other family members at risk
Brief Strategic Family Therapy	See Family Counseling	Recommended on case by case basis	Highly Recommended	Recommended for early incidents and only if it does not put other family members at risk
MST/FFT	See Family Counseling	Not recommended, service is more intensive than needed	Highly recommended	Recommended if it does not put other family members at risk
Parent Education	Recommended; needs to include abusive parent accountability to the system (monitoring)	May be recommended	Recommended, focus on parent skills	Recommended, focus on parent skills and support

Recommended Juvenile Justice Treatment Responses to ADB (system responses)				
Anger Management	Not recommended for youth, may be recommended for abusive parent	Usually not necessary	Recommended on case by case basis; should be paired with other services	Recommended; should be paired with other services
ADB Specific Treatment	**Defensive**	**Isolated**	**Family Chaos**	**Escalating**
Safety Planning	Recommended, including planning around parent violence	Recommended, may include "behavior contract"	Recommended; may include "behavior contract"; may need to include planning around parent behavior	Highly Recommended, may want to safety plan with parent alone
Domestic Violence Education (4 hour educational program)	Recommended on case by case basis and only if it has a parent component	Recommended on case by case basis	Recommended if it has a parent component	Recommended for early incidents
Step Up (21 week group therapy curriculum with parent component)	Not recommended unless it is the only treatment option available	Due to length of program, not recommended unless parents are requesting additional support	Highly recommended; emphasize accountability	Highly Recommended; emphasize safety planning; needs to include youth accountability to the system (monitoring)
Traditional Adult DV education	Not recommended	Not recommended	Not recommended	Recommended only for escalating youth with very high risk scores
Blended Responses (system and treatment)	**Defensive**	**Isolated**	**Family Chaos**	**Escalating**
Mediation	Not recommended	Highly Recommended	Recommended if there is additional system monitoring/accountability	Recommended only for early incidents and only if there is additional system monitoring/accountability
Specialized Docket	Child Welfare Jurisdiction Court	Not recommended, service is more intensive than needed	Highly recommended	Highly recommended

The Response Grids are provided merely as examples of structured decision making grids. Specific individual cases may at times defy the logic of the chart and must be independently evaluated as it is possible that the response grid may overreact or underreact to any unique set of circumstances.

CHAPTER 5: The ADBTT Validation Study: Identification of The Typologies

The authors developed and finalized the version of the ADBTT described in this manual based on findings from the multi-site ADBTT Validation Study. This study has the largest reported sample of youth who have been arrested for an act of domestic battery toward a parent. Therefore, the characteristics of this sample can be used to understand this population generally. The validation study examined: (1) whether the ADB characteristics fit statistically into the classifications created by the developers, (2) how other youth and family risk factors (e.g., history of potentially traumatic events, mental health issues, substance abuse, parental criminality) correlated with the typologies and (3) whether some of these categories identified youth who were more likely to commit domestic battery again or to reoffend generally over the course of a year. The research methodology also examined the inter-rater reliability of items to ensure different types of assessors could rate the items of the assessment consistently.

The sample was drawn from six court jurisdictions, each of which implemented the ADBTT interview and scoring as part of their routine practice for youth charged with ADB toward a parent. Each of these sites also completed their own general risk assessment with the youth and parent as part of their routine practice to estimate risk of reoffending and to guide case planning. In addition, the sites administered a questionnaire about prior potentially traumatic experiences and a checklist of additional risk factors to the youth to complete on their own.

DESCRIPTION OF THE SITES

It was important to test the ADBTT and interview procedures in different juvenile justice settings and with assessors from different types of professions to strengthen its generalizability. The location where the assessment was conducted varied across sites as follows:

- **Lucas County Juvenile Court** – ADBTT assessments were conducted when the youth first entered the detention facility.
- **DuPage County Juvenile Court** – ADBTT assessments took place with youths at intake, either at diversion or pre-arraignment. Youths who committed felonies were automatically referred for a formal delinquency petition and not included or assessed.
- **Pima County Juvenile Court Center** – ADBTT assessments took place at the Domestic Violence Alternative Center (DVAC), which serves as an alternative to detention intake for youth who are arrested for misdemeanor domestic violence offenses. Youth who committed felonies were automatically petitioned and not included or assessed.
- **Bexar County Juvenile Probation Department** – ADBTT assessments were typically completed at the first meeting with the probation department. Youths who committed felonies were automatically filed and not assessed.
- **Connecticut Judicial Branch Court Support Services Division (New Britain and Hartford)** – Most of the youth involved in the project were first and second time offenders who were eligible for non-judicial handling, so the ADBTT assessments were administered at the first meeting after an admission to the charges.

DESCRIPTION OF THE SAMPLE

The sample for the study comprised youth who were charged with a domestic battery offense. The ADBTT initially was completed for 515 adolescents charged with a domestic battery offense who were brought to one of the six juvenile justice locations in the study. A total of 142 of these cases were excluded as follows: 93 cases were removed because they were ineligible for the study (there wasn't a real battery charge, ADB was not against a parent), 45 were removed because they were duplicate cases, and 4 were removed due to incomplete assessments. The final sample included 373 adolescents charged with a domestic battery specifically against at least one parent or caregiver.

Demographic information for the entire sample is included in Tables 1 through 3, which also provide the information by site. The youth averaged 14.6 years of age and most were boys, but a surprising 40% were girls. The sites had significant differences in the number of youth with child welfare involvement (see Table 1), with the highest rates in Hartford County and the lowest rates in Pima and DuPage Counties; $\chi^2(5, 358) = 60.92$, $p < .01$.

Table 1: Age, Gender, and Child Welfare Involvement By Site

	Overall N = 373	DuPage n = 32	Lucas n = 91	Bexar n = 31	Pima n = 175	New Britain n = 21	Hartford n = 23
Age Range	9-18	12-18	12-17	11-17	9-17	13-17	12-17
Age M(SD)	14.68 (1.7)	15.44 (1.3)	14.65 (1.5)	14.77 (1.5)	14.51 (1.9)	15.14 (1.5)	14.48 (1.5)
Gender (n & % Male)	221 (59.2%)	25 (78.1%)	25 (78.1%)	16 (51.6%)	99 (56.6%)	16 (76.2%)	16 (69.6%)
Current Child Welfare Involvement[a]	49 (13.1%)	0	24 (26.4%)	7 (22.6%)	6 (3.4%)	2 (9.5%)	10 (43.5%)
Prior Child Welfare Involvement	96 (25.7%)	1 (3.2%)	40 (44.0%)	14 (45.2%)	27 (15.4%)	7 (33.3%)	7 (30.4%)

Note. There were no significant differences in age or gender across sites. There were significant differences in child welfare involvement by site $\chi^2(5, 358) = 60.92$, $p < .01$

Unlike the general population of youth in the juvenile justice system, the majority of this adolescent domestic battery sample was White and non-Hispanic (see Tables 2 and 3). There were significant differences in the racial [$\chi^2(15, N = 373) = 77.40$, $p < .001$] and ethnic [$\chi^2(5, 360) = 29.49$, $p < .01$] breakdown across sites (see Tables 2 and 3). Lucas and Hartford Counties had the highest proportion of Black adolescents. Bexar had the highest proportion of Hispanic youth.

Table 2: Racial Composition of Sample by Site

	Overall N = 373	DuPage n = 32	Lucas n = 91	Bexar n = 31	Pima n = 175	New Britain n = 21	Hartford n = 23
Black	81 (21.7%)	5 (15.6%)	41 (45.1%)[a]	6 (19.4%)	14 (8.0%)	5 (23.8%)	10 (43.5%)[a]
White	257 (68.9%)	25 (78.1%)	44 (48.4%)	22 (71.0%)	139 (79.4%)	15 (71.4%)	12 (52.2%)
Asian	3 (0.8%)	2 (6.3%)	0	1 (3.2%)	0	0	0
Other	32 (8.6%)	0	6 (6.6%)	2 (6.5%)	22 (12.6%)	1 (4.8%)	1 (4.3%)

Table 3: Ethnicity by Site (overall n = 123, 34.2% Hispanic)

	DuPage n = 32	Lucas n = 91	Bexar n = 31	Pima n = 175	New Britain n = 21	Hartford n = 23
Hispanic	8 (25.0%)	13 (14.1%)	19 (61.2%)	69[a] (39.4%)	4[a] (19.0%)	10 (43.5%)

Note: There were significant differences in ethnicity by site $\chi^2(5, 360) = 29.49$, $p < .01$. a = Significantly higher proportions than the other sites.

Juvenile Justice Status

Youth were at various stages in the juvenile justice process at the time they completed their ADBTT interview (see Table 4). Most juveniles interviewed in DuPage County were placed into a diversion program by the time of the interview. Similarly, youth in Pima County were interviewed at a Domestic Violence Alternative Center (DVAC) diversion program, which serves as an alternative to detention intake for youth who are arrested for misdemeanor domestic violence offenses. The majority of youth in Bexar County, Hartford, and New Haven, were interviewed pre-adjudication while in the community; whereas in Lucas County, youth were interviewed pre-adjudication in detention.

Table 4: Juvenile Justice Status At Time of Interview

	Overall N = 373	DuPage n = 32	Lucas n = 91	Bexar n = 31	Pima n = 175	New Britain n = 21	Hartford n = 23
Pre-Adjudication-in community	228 (61.3%)	7 (21.9%)	13 (14.3%)	15 (48.4%)	155 (88.6%)	15 (75.0%)	23 (100%)
Pre-Adjudication-in detention	90 (24.2%)	4 (12.5%)	70 (76.9%)	14 (45.2%)	0	2 (10.0%)	0
Diversion program	35 (9.4%)	21 (65.6%)	6 (6.6%)	0	8 (4.6%)	0	0
Probation	12 (3.2%)	0	0	0	12 (6.9%)	0	0
Other (non-judicial, pending, post adjudication)	7 (1.9%)	0	2 (2.2%)	2 (6.5%)	0	3 (15.0%)	0

Note: Sites differed significantly in the proportion of youths at different juvenile justice stages; $\chi^2(20, 372) = 390.02$, $p < .01$. Information was missing for one case in New Britain.

Victims

Types of victims for the current domestic battery incident were collected using the ADB tool. Youth ranged from having zero to five victims for their current domestic battery charge, for a total of 435 victims; an average of 1.19 (SD = 0.50) victims for each index offense. The most likely victims were mothers across the board (see Table 5). The sites significantly differed with respect to the proportion of victims who were fathers or other relatives, with New Britain and DuPage County having the highest proportion of father victims; x^2(5, 352) = 14.47, p = .01. Bexar, DuPage, and Hartford counties had the highest proportion of additional victims that were relatives other than parents or siblings (aunts, uncles, grandparents); x^2(5, N = 353) = 19.30, p < .01. Pima county had the highest proportion of ADB incidents with 2 or more victims (z = 2.1); x^2(5, N = 376) = 50.22, p < .01.

Table 5: Victims of Acts of Domestic Battery

	Mother	Father	Sibling	Other
Overall	266 (71.9%)	80 (21.6%)	40 (10.8%)	49 (13.2%)
DuPage	19 (59.4%)	10 (31.3%)[a]	1 (3.1%)	6 (18.8%)[a]
Lucas	63 (70%)	14 (15.6%)	10 (11.1%)	12 (13.3%)
Bexar	22 (71%)	4 (12.9%)	2 (6.5%)	6 (19.4%)[a]
Pima	131 (74.9%)	41 (23.4%)	23 (13.1%)	21 (12%)
New Britain	13 (68.4%)	9 (47.9%)[a]	1 (5.3%)	0
Hartford	18 (78.3%)	2 (8.7%)	3 (13%)	4 (17.4%)[a]

NOTE: Youth could have more than one victim for the index offense. There were significant differences in the proportion of father and other victims by site. a = Significantly higher proportions than the other sites

CHAPTER 6: Psychometric Properties and Reliability

The ADBTT Validation Study investigated many qualities that make an assessment tool like this sound. In order for a tool to be considered scientifically sound, there should be evidence that (1) it can be rated reliably by different assessors, (2) the items on the tool hang together statistically to form typologies, (3) the tool relates to other variables it is expected to correlate with, and (4) the tool predicts reoffending in this case, domestic violence offenses (*predictive validity*). This chapter covers items #1 through #3. Chapter 9 describes the ADBTT's predictive validity and the association between the typologies, services received, and reoffending.

ADBTT Scoring Procedures

In order to test all aspects of the tool, particularly whether the types fit into statistically valid 'factors', it was first necessary to develop a scoring method for each of the individual characteristics to be rated by the assessors that used a continuous scale. The initial tool created by the developers had eight domains (e.g., "Youth Attitude Toward Change", "Triggers to Violence", "Reaction of Parties") with five items in each domain, for a total of 40 items. Each of the five items within a domain was expected to be a quality of only one of the five typologies. For example, for the domain "Parent/ Youth Roles", the items ranged from a) parent demonstrates inappropriate power and control (Defensive) to e) youth demonstrates inappropriate power and control (Escalating). Interviewers were instructed to rate each item on a 3-point scale, with 2 meaning "Yes, describes the youth or situation", 1 meaning "Maybe, describes the youth or situation in some respects", and 0 meaning "No, it does not describe the youth or situation". This rating scheme permitted the option of having more than one item within a domain endorsed for a youth if it applied. It also enabled the use of confirmatory factor analysis statistics to identify whether items fit within the typologies as expected.

Inter-rater Reliability

The ADBTT requires good training and some judgment to rate the items of the tool. Inter-rater reliability (IRR) is the extent to which independent raters of a test are consistent with each other in assigning ratings to test items or arriving at final conclusions. In other words, if two probation officers were to complete the ADB Typologies tool on the same youth, they should rate the items in the same way. If a tool does not have inter-rater reliability than it will not be able to demonstrate validity and is not much better than simply using one's judgment without use of a tool.

The procedures were as follows. At each site, a random sample of youth was selected as inter-rater cases. In these cases, one trained staff member (a clinician or probation officer) conducted the interviews with the youth and parent while another trained staff member observed. Both staff members then rated the assessment tool independently. The number of youth cases that were double-rated for this IRR analysis ranged from two to 12 per site for a total of 37 cases.

Intra-class correlation coefficients (ICC) were used to examine the IRR of each item. ICCs can range from 0 (no association) to 1.0 (perfect reliability), with ICCs between .60 to .80 indicating **good agreement** and .80 to 1.00 indicating **excellent agreement**. Eighteen of the 40 items on the ADBTT performed in the good to excellent range with ICCs > .60. Twenty-two items did not have good IRR; however, this was largely due to a lack of variability in the ratings of the items. In other words, some of these items had very few 0 or 2 ratings. This limits the ability to test the IRR using ICCs. For instance, for

one item the raters had 100% agreement across the 37 cases but because there was no variability in the item responses, an ICC could not be calculated. For these items, we examined the percent agreement between raters. Nine of the items with low response variability performed well with a percent agreement greater than 80%. Nine other items with low response variability performed adequately with percent agreements between 70 and 80%. Only 4 of the 40 items did not perform satisfactorily with less than 70% agreement.

Overall, the majority of items (36 out of 40) performed adequate to excellent. The four poor items were either rewritten or eliminated from the final tool. Appendix D contains the inter-rater reliability indices for each item.

Identifying the ADB Typologies Using Factor Analysis

An exploratory factor analysis indicated a four typology framework (instead of five as was originally conceived), suggesting that there were four somewhat independent types of youth committing domestic battery from the sample. The researchers used factor analysis to examine whether items of the ADBTT fit into typologies in the way we hypothesized. A series of steps were taken in order to derive the most appropriate factor structure using MPlus software, which can test factor structures for ordinal item-level data using polychoric correlations. We started with confirmatory factor analysis (CFA) to determine if the five-factor structure derived from the pilot study held up in this new sample. The fit was poor. Thus, we eliminated the four items with poor inter-rater reliability and conducted an exploratory factor analysis (EFA) to use a statistically-driven approach to identify which items had the best fit within different factors. It was evident some items had to be eliminated because they were characteristic of more than one typology. Once the best factor structure was identified using EFA, it was tested again using CFA.

The final model with the best fit was a 3-correlated factors model with some factors having different numbers of items (RMSEA = 0.076 and CFI = 0.90). The factor loadings ranged from .44 to 1.0 (factor loadings were set to 1.0 for the first item on each factor), with most equaling .70 or higher. In order to obtain this good model fit, a number of changes had to occur to the tool, which should explain why it is scored as described in Chapter 3:

- It was necessary to leave all of the defensive type items out of the factor analysis because these items stood alone into one independent factor with very good fit. Further, a youth can only be classified as this type if every act of ADB has been in self-defense.
- A number of items had to be removed from the Family Chaos category or rewritten. The researchers believe this was due to misunderstandings of the raters in the characteristics these items were designed to capture.
- The Escalating category had the most items because two originally conceived types actually characterized only this type. Researchers interpreted the results to mean the Escalating type falls on a continuum of severity. Further, youth classified in other Types can have varying degrees of Escalating traits. Therefore, the developers created the Progressive Risk Score. Some youth may start out as defensive or isolated but are actually holding attitudes consistent with increased risk of more domestic violence.

Further validation of the factor structure of the final tool will be needed as data accumulate.

After the factor structure was finalized, youth were assigned to a category based on the number of items that were rated as a '2' within each category. The most common type was Escalating. We examined whether there were differences in the proportion of youth in each typology by site and demographic characteristics to further validate the structure.[2] The highest proportion of Escalating youth was in CT, with over 50% of youth in the Escalating category (see Table 6). Bexar County had the highest proportion of defensive adolescents. The differences across jurisdictions are likely due to jurisdictional differences in youth processing and arrests. However, the notion that this could be due to differences in the site philosophies of rating items cannot be discounted despite the good to excellent reliability.

Table 6: Number (%) of Cases Falling Within Each ADB Typology By Site

Typology	Overall (N = 373)	DuPage (n = 32)	Lucas (n = 91)	Pima (n = 175)	Bexar (n = 31)	CT (n = 44)
Defensive	50 (13.7%)	2 (6.3%)	14 (15.4%)	21 (12.0%)	8 (25.8%)[a]	5 (11.4%)
Isolated Incident	96 (26.3%)	11 (34.4%)[a]	30 (33.0%)[a]	35 (20.0%)[b]	10 (32.3 %)[a]	10 (22.7%)
Family Chaos	65 (17.8%)	9 (28.1%)[a]	10 (11.0%)[b]	36 (20.7%)	5 (16.1%)	5 (11.4%)[b]
Escalating	154 (42.2%)	10 (31.3%)[b]	30 (33.0%)[b]	82 (46.9%)	8 (25.8%)[b]	24 (54.5%)[a]
Unclassified	8 (2.1%)	0	7 (7.7%)[b]	1 (0.6%)[a]	0	0

Note: There were significant differences in the proportion of youth falling into the typologies by site - x^2 (16, N =373) = 42.00, p < .01. a - Significantly higher proportions, b - Significantly lower proportions.

Gender and Race/Ethnicity Differences

There were no significant racial or ethnic differences in the proportion of youth falling within each typology. However, there were significant differences by gender (see Table 7). Youth falling within the Escalating type were 65.6% male. However, among girls the highest proportion still fell within the Escalating type. Girls (17.1%) were more likely to be in the defensive type than boys (10.9%) and were more likely to be unclassifiable.

2 The two CT sites were collapsed into one group for most analyses due to the small numbers in the two sites, and they were relatively similar in most respects.

Table 7: Prevalence of ADB Typologies Within Each Gender

Typology	Male (N = 221)	Female (N = 152)
Unclassified	2 (0.9%)	6 (3.9%)
Defensive	24 (10.9%)	26 (17.1%)
Isolated Incident	61 (27.6%)	35 (23.0%)
Family Chaos	33 (14.9%)	32 (21.1%)
Escalating	101 (45.7%)	53 (34.9%)

NOTE: Differences across all categories were significant x^2 *(4, 373) = 11.74, p = 0.02. Percentages reflect the percent falling into each Type within gender.*

Progressive Risk Score

A Progressive Risk Score (PRS) also was calculated for every youth by creating a score for each of the eight domains ranging from 1 to 3 based on the level of severity and then summing ratings across the eight domains. It was essential to derive this added scoring procedure because it was evident that individuals within all types could have qualities from the Escalating type that may indicate whether they are likely to escalate. For example, an individual in the Isolated Incident type may have just hurt a parent for the first time but could have the potential to do it many more times. The PRS ranged from 0 to 23 (out of a possible 24) with an average of 6.08 (SD = 5.69). As expected, the PRS was significantly higher for the Escalating type with an average score equal to 11.52, whereas the other types all ranged from scores of 2 to 2.5; F(3, 364) = 218.6, $p < .001$.

It should be noted that the authors developed a scoring system ranging from 0 to 4 for each item to calculate the PRS for this final version of the ADBTT. Therefore, the possible range of scores on the PRS is now 0 to 32.

Concurrent Validity: Correlates With the ADB Typologies Tool

ADB Typologies and Potentially Traumatic Experiences

The Juvenile Victimization Questionnaire (JVQ) (Finkelhor, Hamby, Ormrod, & Turner, 2005) was administered alongside the ADBTT to determine if there were any differences in the occurrence of prior potentially traumatic events between the ADB typologies. The JVQ contains 34 yes/no items that gain information on five different types of potentially traumatic experiences (e.g., conventional crime, child maltreatment, peer & sibling victimization, sexual victimization, and witnessed crime). Additionally, four composite scores can be derived from the items in order to delineate any type of victimization from property crime, physical crime, sexual assault, or peer & sibling assault. The JVQ was designed and validated with community populations so there are no established cutoffs for juvenile justice youth. In other words, we cannot say what are relatively high or relatively low scores on this tool.

Analyses indicated that the ADB Typologies differed with respect to their self-reported prior experiences in the following ways (see Table 8):

- **Victimization total scores:** The Escalating (M = 11.21, SD = 6.85) Type scored significantly higher on victimization scores than the Isolated Incident Type (M = 8.67, SD = 6.09; p = .024); F (3, 320) = 2.96, p = .03.
- **Child maltreatment**: The Isolated Incident Type (M = 1.20, SD = 1.13) reported significantly fewer experiences related to child maltreatment than the Defensive (M = 2.00, SD = 0.95, p = .003), Family Chaos (M = 1.75, SD = 1.34, p = .037), and Escalating adolescents (M = 1.66, SD = 1.25, p = .045); F(3, 322) = 4.99, p = .002.
- **Other scales:** There were significant differences on the Sexual victimization [F(3, 321) = 2.71, p = .045, property crime [F(3, 318) = 3.68, p = .012], and sexual assault [F(3, 222) = 3.05, p = .029] scales such that the Escalating type was significantly higher (M = 0.99, SD = 1.48; M = 0.48, SD = 0. 89; M = 1.73, SD = 1.07, respectively) than the Isolated Incident Type (M = 0.50, SD = 1.09, p = .046; M = 0.19, SD = 0.61, p = .029; M = 1.27, SD = 1.13, p = .012).

Table 8: JVQ Scores by ADB Typology

	Primary Subtype				
	Overall	**Defensive**	**Isolated**	**Family Chaos**	**Escalating**
Modules	**M(SD), Range of Scores**				
A. Conventional Crime	3.67(2.4), 0-9	3.54(2.2), 0-9	3.19(2.3), 0-8	3.85(2.5), 0-8	3.92(2.4), 0-9
B. Child Maltreatment	1.60(1.2), 0-4	**2(0.95), 0-4[a]**	**1.2(1.1), 0-4[b]**	**1.75(1.3), 0-4[a]**	**1.66(1.3), 0-4[a]**
C. Peer & Sibling Victimization	1.83(1.5), 0-6	1.98(1.5), 0-6	1.65(1.4), 0-5	1.73(1.4), 0-5	1.94(1.5), 0-6
D. Sexual Victimization	0.75(1.4), 0-6	0.68(1.3), 0-6	**0.5(1.1), 0-5[b]**	0.59(1.3), 0-6	**0.99(1.5), 0-6[a]**
E. Witnessed Crime	2.42(2), 0-8	2.76(1.9), 0-7	2.1(2), 0-8	2(2.1), 0-7	2.71(2), 0-8
Composite Scores	**M(SD), Range of Scores**				
Property Crime	1.57(1.1), 0-3	1.43(1.1), 0-3	1.27(1.1), 0-3	1.72(1.2), 0-3	1.73(1.1), 0-3
Physical Crime	3.78(2.5), 0-11	4.15(2.3), 0-11	3.38(2.3), 0-9	3.73(2.6), 0-9	3.94(2.5), 0-11
Sexual Assault	0.33(0.8), 0-4	0.24(0.8), 0-4	**0.19(0.6), 0-3[b]**	0.23(0.7), 0-3	**0.48(0.9), 0-4[a]**
Peer & Sibling Assault	1.18(1.1), 0-5	1.27(1.0), 0-4	1.1(1.0), 0-3	1.07(1.2), 0-5	1.25(1.1), 0-5
	M(SD), Range of Scores				
Total Scores	10.27(6.5), 0-30	10.95(5.5), 0-30	**8.67(6.1), 0-25[b]**	9.81(6.5), 0-25	**11.21(6.9), 0-27[a]**

Note: a - Significantly higher scores, b - Significantly lower scores within JVQ subscales.

There were also significant differences on JVQ score by site; $F(3, 328) = 6.16$, $p > .01$. Post hoc comparisons indicated that the mean JVQ score for Lucas County ($M = 12.34$, $SD = 6.33$) was significantly higher than DuPage County ($M = 8.22$, $SD = 5.74$, $p = .01$) and Connecticut ($M = 7.93$, $SD = 5.14$, $p > .01$). It is unclear whether this is due to differences in youths' environments (high crime vs. lower crime areas), the setting in which the ADB interviews occurred, or the method of the assessors. Lucas County, for example, had relatively high reporting on the JVQ and these were the only interviews conducted in pre-trial detention. Confinement can affect the intensity of a juvenile's symptoms, or cause them to over-report symptoms (Krisberg & Wolf, 2005). DuPage County administered the JVQ at the end of an assessment battery when youth may have been burnt out and less likely to report issues.

ADB Typologies and Behavioral or Mental Health Problems

Youths were asked to complete a checklist containing 26 additional risk factors to examine other characteristics that discriminate youth within the typologies. Some of these factors pertained to the youth and some pertained to the parents. Most of the items referred to behavioral problems and a few involved mental health characteristics. Youth classified within the four typologies significantly differed with respect to 10 of the behavioral items (see Table 9). In general, youth in the Escalating Type had the most behavioral problems exhibited by the youth; whereas youth in the defensive category had the most behavioral problems exhibited by a parent or caregiver.

Table 9: Behavioral Factors That Differed Significantly Between Typologies

	Defensive n = 50	Isolated n = 96	Family Chaos n = 65	Escalating n = 154	χ^2(df)
Youth factors					
Prior police contact	25 (50.0%)[b]	67 (69.8%)[a]	48 (73.8%)[a]	119 (77.3%)[a]	(3) = 15.53***
Prior runaway > 24 hours	14 (28.0%)[b]	22 (22.9%)[b]	18 (28.0%)[b]	58 (37.7%)[a]	(3) = 7.80*
In Special Education	5 (10.0%)[b]	14(14.6%)[b]	13 (20.0%)[b]	45 (29.2%)[a]	(6) = 15.32**
Hurt someone who lives with you out of anger	17 (34.0%)[b]	50 (52.1%)[a]	25 (38.5%)[b]	83 (53.9%)[a]	(3) = 10.71**
Physically fight with siblings often	2 (4.0%)[b]	5 (5.2%)[b]	4 (6.2%)[b]	28 (18.2%)[a]	(9) = 38.15***
Hurt someone who does not live with you out of anger	9 (18.0%)[b]	18 (18.8%)[b]	9 (13.8%)[b]	45 (29.2%)[a]	(3) = 8.48*
Been so angry you destroyed something belonging to you or someone else intentionally	8 (16.0%)[b]	25 (26.0%)[b]	14 (21.5%)[b]	55 (35.7%)[a]	(6) =18.50**
Pushed/kicked parents over cell phone or other technology > 2x	6 (12.0%)[a]	2 (2.1%)[b]	11 (16.9%)[a]	23 (14.9%)[a]	(6) =14.38*
Parent factors					
Parent/caregiver abuses alcohol or uses illegal drugs	16 (32.0%)[a]	13(13.5%)[b]	16 (24.6%)[b]	35(22.7%)[b]	(3) =7.93*
Parents have been so angry they hurt youth in an argument	33 (66.0%)[a]	39(40.6%)[b]	33 (50.8%)[b]	77(50.0%)[b]	(3) =10.79**

*Note: a - Significantly higher proportions and b - Significantly lower proportions within each factor. * = p < .05, ** = p < .01, *** = p < .001.*

The ADB typologies were similar in the prevalence of the following behavioral factors:

- Criminal record of live-in relative/parent
- Unexcused absences from school
- Behavioral problems at school
- Gang involvement
- Youth's drug use
- Has harmed a significant other
- Threatened someone with a weapon
- Homicidal ideation
- Witnessed physical abuse in the home
- Witnessed sexual abuse in the home

With respect to mental health concerns, youth in the Escalating type were most likely to have a history of mental health problems (see Table 10).

Table 10: Mental Health Factors That Differed Significantly Between Typologies

	Defensive n = 50	Isolated n = 96	Family Chaos n = 65	Escalating n = 154	χ^2(df)
Been in counseling or had a psychological evaluation	27 (54.0%)[b]	62 (65.3%)[b]	42 (64.6%)[b]	111 (72.1%)[a]	(3) =11.59**
Diagnosed with a mental illness	17 (34.0%)[b]	52 (54.2%)[b]	29 (44.6%)[b]	101 (65.6%)[a]	(3) =17.77***

*Note: a - Significantly higher proportions and b - Significantly lower proportions within each factor. * = p < .05, ** = p < .01, *** = p < .001.*

The ADB typologies were similar in the prevalence of the following mental health factors:

- Suicidal ideation
- History of self-harm
- Mental illness diagnoses of someone in the home
- Disability of someone in the home

CHAPTER 7: The ADBTT and Risk for Reoffending

The ADBTT Validation Study tracked data from youth in this sample after their ADBTT assessment. Data gathered included all the services youth attended and all new juvenile and adult petitions and adjudications (dates and charges) incurred since their ADBTT assessment. The information was tracked from official records and administrative databases. The length of follow-up for individual youths ranged from 155 days to 467 days for an average of 10.65 months (SD = 2.56 months) following their ADBTT assessment.

It also was important to track the amount of juvenile justice intervention youth in the sample received or were receiving during the follow-up period. The more intervention received after their index offenses, the less opportunity they would have had to reoffend. Table 11 indicates the court outcomes or dispositions received for the whole sample and by site. It is important to note that the court outcomes in Table 11 were not necessarily a result of the ADB charge. Often times the ADB charges were pled down and youth instead incurred a disposition as a result of other offenses they were charged with at the same time (e.g., criminal damage, disorderly conduct). As illustrated in Table 11, only one youth was removed from the community after their index offense. This case was excluded from all the recidivism analyses.

Table 11: Court Outcomes/Dispositions Following ADB Assessment

	Overall N = 373	DuPage n = 32	Lucas n = 91	Bexar n = 31	Pima n = 175	CT sites n = 44
Case Held Open	17 (4.6%)	11 (34.4%)	2 (2.2%)	0	4 (2.3%)	0
Dismissed/Transferred	58 (15.5%)	0	27 (29.7%)	2 (6.5%)	21 (12.0%)	8 (18.2%)
Dismissed After Mediation	14 (3.8%)	0	14 (15.4%)	0	0	0
Informally Handled	107 (28.7%)	0	6 (6.6%)	6 (19.4%)	61 (34.9%)	34 (77.2%)
Diversion	111 (29.8%)	21 (65.6%)	1 (1.1%)	23 (74.2%)	66 (37.7%)	0
Adjudicated Only	19 (5.1%)	0	18 (19.8%)	0	1 (0.6%)	0
Probation	43 (11.5%)	0	23 (25.3%)	0	18 (10.3%)	2 (4.5%)
Intensive Probation	3 (0.8%)	0	0	0	3 (1.7%)	0
Placement	1 (0.3%)	0	0	0	1 (0.6%)	0

ADB Typologies and Risk for Re-Offending Assessment Tools

Each participating site administered a risk assessment tool for general reoffending to each youth completing an ADBTT assessment as part of their routine practice to assist with case management and supervision decisions. The risk assessment tool utilized varied by site. For example, DuPage County used the Youth Assessment and Screening Instrument (YASI-2). Lucas County used the Ohio Youth Assessment System (OYAS). Pima County used the Arizona Risk/Needs Assessment (ARNA). Bexar County used the Positive Achievement Change Tool (PACT). Connecticut (Hartford and New Britain) used the Juvenile Assessment Generic (JAG). Each of these risk assessment tools, with the exception of the JAG, has more than one peer-reviewed publication of studies demonstrating the tool's predictive validity for future offending.

The researchers examined the association between the Typologies and risk levels (Low, Moderate, or High) identified by a risk assessment tool, regardless of the tool used. This procedure was legitimate because the validity of most of the tools'

risk levels has been established and, therefore, the tools should be measuring the same thing. Surprisingly, the majority of youth in the sample were rated at Moderate risk for reoffending. This is surprising because most of these youth were assessed very early in the system, where there is a greater likelihood of youth being Low risk. Youth within the Typologies differed significantly in their level of risk for reoffending; $x^2(6, 357) = 27.93$, $p = .001$ (See Table 12). As expected, the Escalating type was significantly more likely to be rated as High risk than the Isolated or Defensive types. Youth in the Family Chaos type were the second most likely to be rated High Risk.

Table 12: N(%) of ADB Types Falling Within Each Level of Risk For Reoffending From Risk Assessment Tools

Typology	Low (n = 57)	Moderate (n= 178)	High (n = 122)
Defensive (n = 49)	11 (22.4%)	25 (51%)	13 (26.5%)
Isolated (n = 92)	19 (20.7%)	58 (63%)[a]	15 (16.3%)[b]
Family Chaos (n = 65)	13 (20%)	27 (41.5%)	25 (38.5%)
Escalating (n = 151)	14 (9.3%)[b]	68(45.0%)[a]	69 (45.7%)[a]

Note: $x^2(6, 357) = 27.93$, $p = .001$; a and b subscripts denote groups that are significantly different from each other.

Rates of Reoffending

Reoffending (or recidivism) was examined in terms of both new petitions and new adjudications. The types of petitions and adjudications were categorized as follows: generally violent offenses (does not include domestic violence), domestic violence, non-violent crime, and any crime (includes all of the above and probation violations, but excludes status offenses).

Overall, the rates of new petitions were fairly high (41.8%). The most common category of new offense was domestic violence at (25.5%), followed by non-violent reoffending at (19.3%), violent reoffending (10.2%), and probation violations (8.3%). There were significant differences by site for any type of reoffending and rates of domestic violence (see Table 13). Pima County had the highest proportion of new petitions for domestic violence and for any recidivism.

Table 13: Rates of New Petitions Within Each Site

	DuPage n = 32	Lucas n = 91	Bexar n = 31	Pima n = 175	CT Sites n = 44	$x^2(4, 372)$
Violent	1 (3.1%)	12 (13.2%)	3 (9.7%)	16 (9.1%)	6 (13.6%)	3.13, ns
Non-Violent	6 (18.8%)	17 (18.7%)	3 (9.7%)	37 (21.1%)	9 (20.5%)	2.77, ns
Domestic Violence	4 (12.5%)[b]	24 (26.4%)	1 (3.2%)[b]	65 (37.1%)[a]	1 (2.3%)[b]	36.31***
Probation Violations	0	13 (14.3%)[a]	1 (3.2%)[b]	17 (9.7%)[b]	0	13.23**
Any	8 (25.0%)[b]	36 (39.6%)	6 (19.4%)[b]	93 (53.1%)[a]	13 (29.5%)	21.32***

*Note: a - Significantly higher proportions and b - Significantly lower proportions within recidivism type. * = p < .05, ** = p < .01, *** = p < .001.*

The rates of adjudications for the sample were much lower than petitions because so many youth were diverted or handled informally. In addition, in some jurisdictions it took a long time for cases to be fully processed. The rate of new adjudications for any type of offense was 13.9%. The most common type of adjudication was for a domestic violence offense with a rate of (6.7%), followed by probation violations (4.6%), violent offenses (4.3%), and non-violent offenses (4%). The Connecticut sites did not have any adjudications because they started the study late, averaging a 7.86 month (SD = 1.26 months) follow-up. Lucas had the highest rates of adjudications because they were the first site in the study. Because the rates of adjudications were so low and could vary as a function of the length of time each site was in the study, all subsequent analyses of recidivism focus only on new petitions.

Table 14: Rates of New Adjudications Within Each Site

	DuPage n = 32	Lucas n = 91	Bexar n = 31	Pima n = 175	CT Sites n = 44	$\chi^2(4, 372)$
Violent[a]	0	6 (6.6%)	0	10 (5.7%)	0	6.86, ns
Non-Violent	1 (3.1%)	6 (6.6%)	2 (6.5%)	6 (3.4%)	0	4.08, ns
Domestic Violence	2 (6.3%)	17 (18.7%)[a]	1 (3.2%)[b]	5 (2.9%)[b]	0[a]	28.66***
Probation Violations	0	6 (6.6%)	0	11 (6.3%)	0	7.18, ns
Any	2 (6.3%)[b]	25 (27.5%)[a]	3 (9.7%)[b]	22 (12.6%)[b]	0[a]	23.34***

*Note: a - Significantly higher proportions and b - Significantly lower proportions within recidivism type. * = p < .05, ** = p < .01, *** = p < .001.*

ADB Typologies and Reoffending

The typologies differed in the rates of reoffending in the expected direction. With respect to new petitions, the Escalating Type (31.2%) and Family Chaos Type (33.8%) had significantly higher rates of domestic violence than the other types (see Table 15). In addition, the Escalating Type had significantly higher rates of any type of reoffending than the others. Because adjudications were relatively low, the typologies only differed significantly for any type of reoffending, with the Escalating type being the highest.

Table 15: Rates of New Petitions Within Each Typology

	Defensive n = 50	Isolated n = 96	Family Chaos n = 65	Escalating n = 154	$\chi^2(3, 365)$
Violent	3 (6.0%)	10 (10.4%)	6 (9.2%)	19 (12.3%)	2.21, ns
Non-Violent	6 (12.0%)	18 (18.8%)	12 (18.5%)	36 (23.4%)	4.35, ns
Domestic Violence	7 (14.0%)[b]	16 (16.7%)[b]	22 (33.8%)[a]	48 (31.2%)[a]	12.57***
Probation Violations	1 (2.0%)	4 (4.2%)	5 (7.7%)	20 (13.0%)	9.59*
Any	10 (20.0%)[b]	30 (31.3%)[b]	30 (46.2%)	83 (53.9%)[a]	24.86***

*Note: a - Significantly higher proportions and b - Significantly lower proportions within recidivism type. * = p < .05, ** = p < .01, *** = p < .001*

Progressive Risk Scores and Reoffending

The PRS was significantly related to all types of reoffending, except for non-violent reoffending specifically. Table 16 illustrates the differences in the average PRS score between the youth who received a new petition and those who did not by the end of the follow-up period. Most notably, as expected, the PRS was related to repeated domestic violent offending irrespective of the typology youth were assigned to (although the typology and PRS are strongly related, such that the higher the PRS the greater the likelihood the youth is the Escalating Type).

Table 16: Progressive Risk Scores (PRS) of Recidivists and Non Recidivists by Re-offense Types

	Recidivists M(SD)	Non Recidivists M(SD)	F(1, 371)
Violent	7.92 (6.11)	5.87 (5.62)	4.46*
Nonviolent	7.18 (6.17)	5.81 (5.55)	3.39, ns
Domestic	7.24 (5.81)	5.68 (5.61)	5.36*
Probation Violation	9.61 (6.75)	5.76 (5.49)	13.44***
Any reoffending	7.60 (6.10)	5.04 (5.16)	18.85***

*Note- * = p < .05, ** = p < .01, *** = p < .001*

General Risk Assessment Tools and Reoffending

Youths' risk level as identified by risk assessment tools for general delinquent reoffending was also significantly related to all re-offense types. This is a powerful effect given risk levels were identified by different risk assessment tools at each site. Risk level was significantly related to domestic violent reoffending despite the fact these risk assessments were designed to predict general reoffending only. However, despite the statistical significance, the results in Table 17 indicate the utility of these tools is slightly limited. In almost every category of reoffending, the Moderate risk youth had the same rates of reoffending as the High risk youth, so the risk assessments did not discriminate well between these two groups. The only exception was for probation violations. So in sum, the risk assessment tools appeared to be most useful for distinguishing between youth at high and low risk for domestic violence and general reoffending.

Table 17: Rates of New Petitions Falling Within Each Risk Level on Risk Assessment Tools (n[%])

	Low Risk (n = 58)	Moderate Risk (n = 184)	High Risk (n = 123)	$x^2(2, 364)$
Violent	5 (13.2%)	16 (42.1%)	17 (44.7%)	0.32, ns
Nonviolent	6 (8.5%)	32 (45.1%)	33 (46.5%)	7.84*
Domestic	7 (7.4%)	44 (46.8%)	43 (45.7%)	11.46**
Probation Violation	1 (3.2%)	7 (22.6%)	23 (74.2%)	25.11***
Any reoffending	15 (9.7%)	68 (44.2%)	71 (46.1%)	20.57***

*Note- * = p < .05, ** = p < .01, *** = p < .001*

Does the ADBTT Detect Who Is Likely To Have A Future ADB Charge?

The most important question was whether the ADB Typologies predicted domestic violent reoffending. Another important question was whether the Progressive Risk Score (PRS) added to the prediction of reoffending above and beyond the youth's typology classification. The answers to both questions enable us to comment on the utility of the use of the ADBTT as a risk assessment for domestic violence, which in turn informs the user as to the intensity of monitoring and treatment intervention that is required.

Cox regression techniques were used to answer these questions. Cox Regression estimates the strength of the association between a predictor variable (in this case, the typologies) and a future event (in this case, a new petition) and can also estimate the relative contribution of multiple predictor variables compared to each other. The advantage of using Cox Regression is that it accounts for the length of time an individual had the opportunity to reoffend (time 'at-risk'), which is crucial for our sample where youth had different lengths of follow-up (some were in the study only 5 months and others were in the study over one year). In addition, Cox Regression takes 'censored' cases into account meaning youth who have not yet reoffended are still included in the prediction model because they could still reoffend in the future. For these individuals, the time at-risk is the days between their ADBTT assessment to the end of their follow-up period. The researchers conducted these statistics for each type of reoffending (new petitions) separately, except violent (non-domestic) petitions because of the low base rate.

The ADB Typologies were significant predictors of new petitions for domestic violent acts. A Cox Regression comparing the Types indicated that the Escalating Type was significantly more likely to receive a new petition for a domestic violent act than the Defensive ($\chi^2 = 5.31$, $p = .02$) and Isolated Types ($\chi^2 = 6.13$, $p = .01$). The Family Chaos Type also was significantly more likely to receive a new petition for a domestic violent act than the Defensive ($\chi^2 = 5.41$, $p = .02$) and Isolated Types ($\chi^2 = 5.80$, $p = .02$). As expected, the Defensive and Isolated Types did not differ in their likelihood of domestic violent reoffending and the Family Chaos and Escalating Types also were not significantly different from each other.

The PRS also significantly predicted time to a new domestic violence offense on its own ($\chi^2 = 5.83$, $p = .02$), but it did not add to the tool's ability to predict domestic violent reoffending after taking the Typologies into account as a whole. This is largely due to the overlap in content between the PRS and the Escalating Type. **In practice, this means the types will be the best predictors of who is likely to commit more acts of ADB (if the youth is classified as Escalating or Family Chaos they have the greatest likelihood). However, the PRS can have clinical value in individual cases when trying to gauge the risk of youths on lower levels of the spectrum; namely, the Defensive or Isolated youths.** Put simply, if one of these youths had a relatively high Progressive Risk Score, they may be in need of more intervention or victim safety planning.

The researchers also investigated the ADBTT's ability to predict other types of reoffending. The Escalating Type was significantly more likely to commit any type of new offense than any other Type except Family Chaos ($\chi^2 = 1.36$, $p = ns$). Family Chaos had a greater likelihood of any reoffending than the Defensive ($\chi^2 = 7.47$, $p = .01$) and the Isolated youth ($\chi^2 = 3.90$, $p = .05$). The PRS alone also predicted whether youth were likely to reoffend generally ($\chi^2 = 24.87$, $p < .001$) and added significantly to the ADB Typologies' ability to estimate the likelihood of any reoffending ($\chi^2 = 5.70$, $p = .02$). This means that youth with relatively high Progressive Risk Scores have greater likelihoods of reoffending generally regardless of their Type classification.

Do the ADB Typologies Detect Who Is Likely To Have A Future ADB Charge Better Than General Risk Assessment Tools?

The next important question was whether the ADBTT predicted future acts of domestic violence better than the risk assessments used for general reoffending. It turns out that the risk levels from the general risk assessment tools alone significantly predicted domestic violence ($\chi^2 = 9.99$, $p < .001$, Exp[B] = 1.75). The Exp[B] is the *hazard function* and can be loosely translated in this case to mean that as risk level increases, the likelihood of obtaining a new petition for an act of domestic violence increases by 1.75 (almost twice as likely). However, as was evident in Table 17, the risk assessments only tell us that both the Moderate and High risk youth have close to a 50% chance of receiving a new petition for a domestic violent act but the Low risk youth were very unlikely to do this. So the tools are not very discriminating.

The Typologies significantly added to the risk assessment tools' ability to predict domestic violent reoffending. Adding the Typologies to the regression equation significantly improved the model fit (Likelihood ratio test = 35.683(3), $p < .001$). This means that even though risk level on a general risk assessment tool predicted domestic violence, the ADB Typologies were more discriminating. The ADB Typologies did not add anything to the prediction of non-violent reoffending, which is better estimated by a general delinquency risk assessment. Moreover, the PRS alone did not contribute significantly to the prediction of domestic violent reoffending after taking level of risk from the general risk assessment tools into account.

In conclusion, the ADB Types significantly detect youth at increased likelihood for continued acts of domestic violence, particularly the Escalating and Family Chaos Types. The PRS can assist with the determination of risk for continued ADB if it is elevated for youth within the lower risk Types. Risk assessment tools also have value for detecting who is likely to commit future acts of ADB but these may not discriminate as well as the ADBTT. To explain, there were 307 youth identified as moderate or high risk on the risk assessment tools and they reoffended at the same rates – around 45%. Thus, if one relied on the risk assessment tools to identify youth needing lots of intervention to prevent reoffending, this would be 87% of their youth. The overall re-offense rate for the whole sample was only 41%. Conversely, if one used the ADBTT to identify youth they should be most concerned about, this would be 59% of the sample (Family Chaos and Escalating Types) or 41% of the sample if they just used Escalating. This is much closer to the actual reoffending rate in this sample. In other words, a risk assessment tool may 'screen in' too many youth for higher levels of intervention.

Interventions, ADB Types and Reoffending

If one follows the risk principle (see Andrews & Bonta, 2010), youth at increased likelihood for committing future acts of ADB are in need of more intervention or effective ADB services. The next question was whether youth receiving different types of interventions were more or less likely to reoffend. The researchers conducted some cursory analyses to examine this question and whether interventions appeared to have differential effects based on youths' ADB Type. The analyses were limited due to inconsistencies in data availability. Studies with a more rigorous research design are needed to better evaluate the impact of intervention services.

Services Youth Received

The types of services youth received from the courts, probation, or programs in the study included both domestic battery-related services (e.g., domestic violence education for youth and parents, respite, mediation, safety planning, etc.) and any other juvenile justice interventions (e.g., mental health treatment, substance abuse treatment, family services, education/employment services, peer mentoring programs, etc.). Data were obtained for each service received since the youths' ADB assessments, including: the name of service (what was it actually called); the agency where the service was received; the date the youth started receiving the service; the date the service ended; and some indicator of completion status (e.g., terminated early/failed to complete, successful completion, sporadic attendance, on-going).

The researchers counted only services that were successfully completed or that were attended for at least one month before the service was terminated or the youth was transferred.[3] In addition, we only counted services that were initiated prior to the youth receiving a petition for a new act of domestic violence (services received after a youth reoffended would not have impacted their re-offense). After all the exclusions, a total of 165 youth received at least one service and some received more than one service during the study period.

The researchers explored whether youth attending certain services were more or less likely to reoffend. The analyses indicated that none of the services tested were associated with decreased reoffending. Next services used by ADB Type were examined because it is conceivable that youth in some Types may benefit more from some services than others; however none of these differences were significant.

There were several limitations with the service analyses that impair one's ability to draw strong conclusions. First, we were unable to control for the length of time spent in services because of missing data. We attempted to get the number of sessions youth attended for each service but this was rarely available in the court data. Second, the analyses do not account for youth receiving multiple services (65 youth received two or more services). However, initial analyses indicated youth receiving two or more services were just as likely to receive a new DV petition as youth who received none or one. Third, sites probably differed in the quality of services that were available. Service quality was not measured in this study because it was well beyond the scope. Lastly and most importantly, there were simply not enough youth within each Type receiving each type of service to conduct meaningful statistical comparisons. More studies are needed that examine the effectiveness of services for treating ADB and treating youth in different Typologies.

3 Services were not counted if there was no information about whether the youth actually attended the service, if the service was unsuccessfully terminated in less than one month, or the youth was transferred in less than a month.

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APPENDICES

Appendix A: Literature Review of Prevalence Studies on Adolescent Domestic Battery

Author	Year	Sample Type	Findings
Cornell and Gelles	1981	Nationally representative sample of 608 families in 1976	9% of the parents of adolescents reported that their child had used one form of violence against them at least once. Authors further projected that more than 2 ½ million adolescents struck a parent at least once in that same year. They note that these are likely underestimates as the data was limited to two parent households and that single parent households are likely to have higher rates of adolescent violence.
Smith et.al[4]	1992	Patients reporting domestic violence in the Emergency Room at a UK hospital	6% of the domestic violence cases presenting in the ER were child-to-parent
British Crime Survey[5]	1996	Small community sample	3% of domestic violence cases were child-to-parent
Wilson, et al.[6]	2006	2005 Offending, Crime, and Justice Survey	3% of youth reported parents as their victim
Walsh and Krienert	2007	National Incident Based Reporting System (NIBRS) data representing 23 states in 2002	17,957 youth ages 21 and younger assaulted their parent or step parent
Parentline Plus (UK Charity)[7]	2008/2010	Calls to agency helpline	8% of 30,000 calls to the helpline were for child aggression toward parents; From June 2008-June 2010, the helpline received 22,537 calls from parents dealing with aggression from their children, with 7,000 of those calls for physical aggression
Snyder and McCurley	2008	FBI's National Incident Based Reporting System (NIBRS) data representing law enforcement agencies in 20 states in 2004	Juveniles represented 9% of all domestic assault offenders. Half (51%) of juvenile domestic assault offenders victimized a parent.
Walsh and Krienert	2009	FBI's National Incident Based Reporting System data examining victim, offender, and incident characteristics of domestic violence incidents from 1995-2005	Between 1995 and 2005, there were 108,231 child-to-parent violence offenders in the NIBRS data
Hunter[8]	2010	Family Intervention Projects	11% of 256 families have reported experiencing violence from their children
Howard[9]	2011	Police data from the state of Victoria (Australia)	9% of all family violence incidents recorded in 2009-2010 involved adolescent to parent violence
Condry and Miles	2013	Domestic violence incidents reported to the London police from April 2009-March 2010	1,892 cases of violence from adolescents (13-19 years) toward a parent, most of which involved violence against the person or criminal damage in the home, were examined

4 As cited in Condry & Miles (2013)
5 As cited in Condry & Miles (2013) and Holt (2013)
6 As cited in Condry & Miles (2013)
7 As cited in Holt (2013)
8 As cited in Condry & Miles (2013) and Holt (2013)
9 As cited in Condry & Miles (2013)

Appendix B: Adolescent Domestic Battery Typology Tool

Instructions for Completing the ADBTT items:

1. Read the script and complete the Client Information below.
2. Answer "Question #1" regarding "violence in response to physical threat". If the answer is "yes"," follow the specific instructions indicated by the asterisk (*) in the question box. If the answer is "no," proceed by scoring each domain as described below.
3. Each domain is scored based on information garnered through interviews with the youth/parent as well as any collateral information the screener has. Refer to "suggested interview questions" in the manual.
4. For each domain, check the box next to the option(s) that best fits the youth and his/her family. If the check box is blacked out "■", there is no option available for that typology. Do not check that box.
5. Refer to the domain definitions provided in the manual to score the items as accurately as possible.
6. If no option appears to fit, or if more than one option appears to fit, follow the instructions on page ___ of the manual.
7. In the gray "PRS Scale" box under each domain item, rate the domain on a scale of "0" to "4" according to the description that best fits the youth and his/her family. Each item defines the "0", "1", and "4" ratings. The "2" and "3" ratings are intentionally undefined so that the screener can rate answers that may fall between the two extremes. Provide a PRS score even when scoring the domain is not possible (e.g., the check box is blacked out), or no typology definition fits the youth/family.
8. Once all domains and PRS Scales have been completed, follow the additional instructions #9 through #13 on the last page.

At the start of the interview, read the following script to youth and/or caregiver: **"I am going to ask you some questions that will help us to better understand what has happened with your family to plan the appropriate services and action for you."**

ADBTT Client Information

Name: _____ DOB_____ ID#: _____

Race: ☐ American Indian/Alaska Native ☐ Asian
☐ Black or African American ☐ Native Hawaiian or Other Pacific Islander
☐ White ☐ other
☐ Multiple Races ☐ Unknown

Ethnicity: ☐ Hispanic ☐ Non-Hispanic ☐ Unknown Gender: ☐ Male ☐ Female

Site: _____ Screening Setting: _____
(Jurisdiction/County, State) (Detention, court, etc.)

Screener Name: _____ Date of Screening: _____

Question #1: Has every incident of violence by the youth toward the parent, ONLY been in response to a physical threat by the parent? ☐ **Yes*** ☐ **No**

**If the answer is "yes," review only the Defensive items for each of the domains. If the Defensive domain description fits the youth and family, check the Defensive box; otherwise do not check ANY typology for that domain. Complete all the PRS Scales for every domain. (See #5 of the instructions.)*

Domain 1 SCOPE OF ADB Check the box next to the option(s) that best fits.					
■ Defensive	☐ Isolated Incident		■ Family Chaos		☐ Escalating
This option was scored in Question #1. Do not count this box as checked	***Isolated/infrequent (<3 in past 24 months.) incidents; Incidents are not "ONLY" in response to a physical threat*		*There is no option available for this typology. Do not count this box as checked.*		Frequent (3 or more in past 24 months) and serious incidents; Incidents are not ONLY in response to a physical threat
Domain 1 PRS Scale Rate "Scope of ADB" on a scale of zero to four. Enter score in the box.					
0 Defensive/Isolated incident OR behavior is not worsening	**1** Threats or aggressive incidents by youth are beginning to increase in frequency and severity	**2**	**3**	**4** Youth demonstrates an established pattern of frequent and severe aggression; at least one incident required medical attention	**PRS SCORE**

Domain 2 PARENTAL AUTHORITY Check the box next to the option(s) that best fits.					
☐ Defensive	☐ Isolated Incident		☐ Family Chaos		☐ Escalating
Parent demonstrates developmentally unreasonable level of authority (authoritarian)	Parent demonstrates developmentally reasonable level of authority (authoritative)		Parental authority is inconsistent or unclear		Parental authority is shifting or has shifted to youth
Domain 2 PRS Scale Rate "Parental Authority" on a scale of zero to four. Enter score in the box.					
0 Parental authority is not shifting or has not shifted to youth	**1** Parental authority is becoming ineffective and control is shifting to youth	**2**	**3**	**4** Youth demonstrates unreasonable level of control/decision-making over parent; parent has no influence over youth	**PRS SCORE**

Domain 3 PREDICTABILITY OF EVENT Check the box next to the option(s) that best fits.					
■ Defensive	☐ Isolated Incident		☐ Family Chaos		☐ Escalating
There is no option available for this typology. Do not count this box as checked	Both parent and youth may be surprised that situation deteriorated to point of violence		Neither parent nor youth is surprised by the predictable pattern/intensity of youth's increasingly aggressive behavior; parent not living in fear		Neither parent nor youth is surprised by aggression; may or may not be surprised at the intensity of the aggression; parent is increasingly fearful
Domain 3 PRS Scale Rate "Predictability of Event" on a scale of zero to four. Enter score in the box.					
0 Parent is not fearful	**1** Both express surprise at intensity; parent is beginning to be fearful	**2**	**3**	**4** Neither is surprised by intensity; parent lives in constant fear	**PRS SCORE**

Domain 4 TRIGGERS TO VIOLENCE Check the box next to the option(s) that best fits.					
☐ Defensive	☐ Isolated Incident		☐ Family Chaos		☐ Escalating
Violence is protective and in response to physical threat by parent	Response to atypical stress without which incident would not have occurred		Response to inconsistent parental discipline, request or limit		Overall pattern shows lessening tolerance for anger and frustration
Domain 4 PRS Scale Rate "Triggers to Violence" on a scale of zero to four. Enter score in the box.					
0 Youth's trigger does not fall on the continuum	**1** Response to parental discipline, request or limit with which youth would have previously complied	**2**	**3**	**4** No trigger necessary, unpredictable pattern	**PRS SCORE**

Domain 5 BEHAVIORAL INTENT Check the box next to the option(s) that best fits.					
☐ Defensive	☐ Isolated Incident		☐ Family Chaos		☐ Escalating
Attempt to protect self or other family members	Impulsive, immediate remorse; no intent to harm		Pattern of increasingly aggressive behavior will stop once youth gets own way, no intent to harm		Pattern of behavior designed to intimidate or control in order to seize parental authority; will harm if necessary
Domain 5 PRS Scale Rate "Behavioral Intent" on a scale of zero to four. Enter score in the box.					
0 Youth's behavioral intent does not fall on the continuum	**1** Youth is struggling to get what he wants and attempts to use intimidation to take over parental authority	**2**	**3**	**4** Behavior establishes coercive control over parent; deliberate with intent to harm	**PRS SCORE**

Domain 6 YOUTH ATTITUDE TOWARD VIOLENCE Check the box next to the option(s) that best fits.					
☐ Defensive	☐ Isolated Incident		☐ Family Chaos		☐ Escalating
Believes violence is inappropriate but is justified in this incident	Believes violence is inappropriate and can identify more appropriate ways he could have resolved situation		Verbally acknowledges violence as inappropriate but is willing to use it again if less aggressive behaviors are not effective in achieving his purpose.		Youth is beginning to consider or has decided that violence is appropriate
Domain 6 PRS Scale Rate "Youth Attitude toward Violence" on a scale of zero to four. Enter score in the box.					
0 Youth believes violence is inappropriate	**1** Is ambivalent about the appropriateness of violence but is experimenting with violence to see if it is effective	**2**	**3**	**4** Accepts violence as preferred response	**PRS SCORE**

Domain 7 YOUTH ATTITUDE TOWARD CHANGE Check the box next to the option(s) that best fits.					
☐ Defensive	☐ Isolated Incident		☐ Family Chaos		☐ Escalating
Youth hopes he won't have to repeat but may do so in response to a perceived threat	Believes own behavior was wrong & is willing to change (preparation/ action stage)		May believe own behavior is wrong but states he is only willing to change if parents change their behavior		Resistant toward changing behavior
Domain 7 PRS Scale Rate "Youth Attitude toward Change" on a scale of zero to four. Enter score in the box.					
0 Aggression was solely protective OR youth is willing to change	**1** Unsure if own behavior needs to change; may believe it is wrong but knows he may repeat because it is effective (contemplation)	**2**	**3**	**4** Unwilling to change behavior; believes own behavior is acceptable and preferred (pre-contemplation)	**PRS SCORE**

Domain 8 PARENT'S CONCERN Check the box next to the option(s) that best fits.					
☐ Defensive	☐ Isolated Incident		☐ Family Chaos		☐ Escalating
Wants to deflect responsibility for incident to youth: may want to see youth punished	Wants situation resolved/no ongoing concerns regarding safety; may take some responsibility		Desires to have someone else (JJ system) impact/influence youth; Parent does not want to be required to change		Parent is concerned for Personal or Family Safety/ Future
Domain 8 PRS Scale Rate "Parent's Concern" on a scale of zero to four. Enter score in the box.					
0 Parent does not have any concerns about safety	**1** Expresses some concerns about safety but mostly anxious for youth, family, and own future if behavior continues	**2**	**3**	**4** Constant and overwhelming fear for personal and family's safety.	**PRS SCORE**

Appendix: B

Additional Instructions to Assign Typology and Calculate Risk Score

9. Count the number of items that are checked in each of the typologies: Defensive, Isolated Incident, Family Chaos and Escalating. (Do not count boxes that have been "blacked out".) Record "number of items checked" on the indicated lines.

Defensive items: ___ /6 Isolated Incident Item: ___ /8 Family Chaos: ___ /7 Escalating: ___ /8

10. Refer to the "Domain Scoring Table" to find the youth's score in each typology and enter them into the indicated boxes.

Typology Scoring Table				
Domains Checked	**Defensive**	**Isolated Incident**	**Family Chaos**	**Escalating**
0	0	0	0	0
1	17	13	14	13
2	33	25	29	25
3	50	38	43	38
4	67	50	57	50
5	83	63	71	63
6	100	75	86	75
7	N/A	88	100	88
8	N/A	100	N/A	100

Defensive	**Isolated Incident**
Family Chaos	**Escalating**

11. Re-enter the answer to question #1 (from page 1 of the ADBTT) and answer question #2.

Question #1: Has every incident of violence by the youth toward the parent, ONLY been in response to a physical threat by the parent? (If "no," youth CANNOT be assigned to the Defensive typology.) ☐ **Yes** ☐ **No**

Question #2: Were there less than 3 incidents of youth aggression in a 24-month period? (If "no," youth CANNOT be assigned to the Isolated Incident typology.) ☐ **Yes** ☐ **No**

12. The youth is assigned to the typology with the highest score, unless otherwise indicated by the answers to #1 or #2. If the Defensive and/or Isolated Incident typologies are ruled out, then assign the youth to the typology with the next highest score. Check the box below with the final typology assignment.

13. Add together the Progression Risk Scores (PRS) from the shaded boxes on pages 2 and 3. Enter the total in the shaded box below.

Final Typology Assignment				PRS SCORE TOTAL
☐ Defensive	☐ Isolated Incident	☐ Family Chaos	☐ Escalating	

Appendix C: Introductory Script and Suggested Interview Questions

Before completing the ADBTT, read the following script:

To the youth and parent(s): "I am going to ask you some questions that will help us to better understand what has happened with your family to plan the appropriate services and action for you. This will require that I have some time to speak with both of you separately and then I would like to speak with both of you together"

Suggested Interview Questions

Domain One: Suggested Interview Questions to assess Scope of ADB

1. Has this ever happened before? Describe previous events.
2. If yes, how often does this happen?
3. Were there ever visible marks?
4. Did victim ever need to go to the emergency room?
5. Was the youth ever the victim or witness of aggression?
6. Does the aggression always have the same victim/perpetrator?

Domain Two: Suggested Interview Questions to assess Parental Authority

1. What are the "rules" in your house? (Actual rules and unspoken rules)
2. What happens when "rules" are broken or expectations are not met?
3. Does the youth comply with discipline?
4. Does the parent follow through with discipline?
5. Who makes decisions about family events, like where to go out to dinner or what to do on vacation or what TV show is on?
6. How has parenting changed from when the youth was younger?
7. What happened after this particular incident?

Domain Three: Suggested Interview Questions to assess Predictability of Event:

1. How did you feel when the incident was happening?
2. Did you see this coming? If so, what were signs?
3. What was your reaction when it was over?
4. How do you feel about the incident now?

Appendix: C

Domain Four: Suggested Interview Questions to assess Triggers to Violence

1. What does parent/youth think caused the event?
2. Describe the sequence of events that led up to this particular incident.
3. If applicable, describe the sequence of events that led up to prior incidents.
4. Describe typical sequence of events that lead up to arguments in the family or that occur when there is a disagreement between parent and youth.
5. Do parent and youth agree about sequence of events?
6. Describe situations when conflict does not lead to aggression.
7. On a scale of one to ten how stressed do you think you are normally, the day of the incident, now...?

Domain Five: Suggested Interview Questions to assess Behavioral Intent:

1. What was youth hoping to achieve by using aggression?
2. Would aggression have occurred if youth had gotten own way earlier?
3. What else, if anything could have prevented the aggression?
4. What was the immediate behavior of youth and parent following the event?
5. What usually happens after an event like this?
6. Does/did youth demonstrate remorse? How?

Domain Six: Suggested Interview Questions to assess Youth Attitude toward Violence

1. Does being aggressive/violent get you what you want? Why or why not?
2. Are you ever violent or aggressive at school, work, with your friends, etc.?
3. Do you think being aggressive is ever justified? Under what circumstances?
4. How do you (youth) feel about hitting your parent (or friend) or (someone else)?
5. If you had it to do over, what (if anything) would you do differently?
6. Can you think of other ways you could have handled this?
7. If you saw one of your friends being aggressive/violent, what would you do/say/feel?
8. If one of your friends saw you being violent, what would they have said?

Domain Seven: Suggested Interview Questions to assess Youth Attitude toward Change

1. Do you think your aggression/violence is a problem for you?
2. Is being aggressive something you could change? Why or why not?
3. Do you think it is something you should change? Why or why not?
4. Is this something you want to change?
5. What do you think it would take to motivate you to change?
6. What do you think would help you change it?
7. When do you intend to change it?
8. What would the benefits to changing be?

Domain Eight: Suggested Interview Questions to assess Parent's Concern

1. What bothers you most about the situation that occurred?
2. What, (if any) safety plans have you made?
3. If it were to happen again, what would you do?
4. What do you think should happen to your child now?
5. Would you be willing to participate in a program to help your child?
6. Have you talked to anyone else about your child's behavior?

Appendix D: Inter-Rater Reliability for Original ADBTT Items

Inter-rater Reliability (IRR) = Reliability refers to consistency. Inter-rater reliability is the extent to which independent raters of a test are consistent with each other in assigning ratings to test items or arriving at final conclusions. The ADB tool's inter-rater reliability was tested by having trained intake workers independently rate the items with a random sample of youth cases that were seen by both intake workers (one conducted the interview and one observed).

Intra-class correlation coefficient (ICC) = Another way of performing reliability testing is to use the intra-class correlation coefficient. This statistic is used for continuous items. The range of the ICC may be between 0 and 1.0. The ICC will be high when there is little variation between the scores given to each item by the raters, for example if all raters give the same or similar scores to each of the items. Like the kappa, ICCs ranging between .60 to .80 indicate good agreement and between .80 to 1.00 indicates very good agreement

Inter-Rater Indices By Item:

1. Parent and Youth Roles	**N**	**ICC_1**	**p**
1a. Parent demonstrates inappropriate power and control	37	0.59	< .001
1b. Appropriate balance of power and control	37	0.55	< .001
1c. Power and control unclear/varies	37	0.69	< .001
1d. Signs of shift to youth power and control	37	0.25	.073
1e. Youth demonstrates inappropriate power and control	37	0.97	< .001
2. Intensity of Adolescent Domestic Battery (ADB)			
2a. Incident(s) only in response to parental threat	36	0.58	< .001
2b. Isolated or infrequent	36	0.60	< .001
2c. Consistent level of low severity	36	0.52	.001
2d. Frequent with increasing severity	36	0.57	< .001
2e. Frequent and severe	36	0.40	.007
3. Reaction of Parties			
3a. Relief/fear by youth and anger/surprise by parent	37	0.50	.001
3b. Both parties surprised incident escalated to point of violence	37	0.73	< .001
3c. Neither party surprised by predictable escalation	36	0.41	.006
3d. Neither party surprised by aggression, may be by intensity	37	0.63	< .001
3e. Neither party surprised by incident or intensity, parents fear	37	0.73	< .001
4. Triggers to Violence			
4a. Violence is protective and in response to physical threat	37	0.66	< .001
4b. Response to unusual stress	37	0.73	< .001
4c. Response to inconsistent parental discipline, request or limit	37	0.54	< .001
4d. Varies with situation; pattern of lessening tolerance	37	0.44	.003
4e. Trigger are unclear and/or unpredictable pattern	37	0.78	< .001
5. Behavioral Intent			
5a. Protective	37	0.58	< .001
5b. Impulsive, immediate remorse	36	0.80	< .001
5c. Opposing parental request, not necessarily intent to harm	37	0.55	.00
5d. To get what he wants, may use intimidation	37	0.50	.001
5e. Controlling or intimidating as well as deliberate or premeditated. Intent to harm as a means to control	37	-0.04	.589

6. Youth Attitude Towards Violence			
6a. Accepts violence as inappropriate, this incident as justified	37	0.63	< .001
6b. Accepts violence as inappropriate	37	0.68	< .001
6c. Accepts violence if nothing else works	37	0.59	< .001
6d. Accepts violence as sometimes appropriate, experimenting	37	0.63	< .001
6e. Accepts violence as preferred response	41	0	Var
7. Youth Attitudes Toward Change			
7a. Believes he is justified but hopes he won't have to repeat	37	0.32	.026
7b. Believes behavior was wrong does not want to repeat	37	0.55	< .001
7c. Will repeat if other options are not available	36	0.36	.017
7d. Ambivalent toward behavior change	37	0.42	.004
7e. Believes others should change	37	0.65	< .001
8. Parent's Primary Concern			
8a. Transfers blame to youth	37	0.37	.013
8b. Wants to get past/move on, may take some responsibility	37	0.64	< .001
8c. Initially overwhelmed/angry, some resistance to system	37	0.69	< .001
8d. Primarily concerned with re-establishing balance, 2nd safety	36	0.79	< .001
8e. Concern for personal/family safety	36	0.91	< .001

Note. VAR = lack of variability. Highlighted items have poor reliability.

Percent Agreement for Items With Poor ICCs (from above)

1. Parent and Youth Roles	n	# Agree	# Disagree	% Agreement
1a. Parent demonstrates inappropriate power and control	37	33	4	89.2%
1b. Appropriate balance of power and control	37	26	11	70.3%
1d. Signs of shift to youth power and control	37	28	9	75.6%
2. Intensity of Adolescent Domestic Battery (ADB)				
2a. Incident(s) only in response to parental threat	36	31	5	86.1%
2c. Consistent level of low severity	36	27	9	75.0%
2d. Frequent with increasing severity	36	28	8	77.8%
2e. Frequent and severe	36	32	4	88.9%
3. Reaction of Parties				
3a. Relief/fear by youth and anger/surprise by parent	37	32	5	86.5%
3c. Neither party surprised by predictable escalation	36	26	10	72.2%
4. Triggers to Violence				
4c. Response to inconsistent parental discipline, request or limit	37	27	10	72.9%
4d. Varies with situation; pattern of lessening tolerance	37	24	13	64.8%
5. Behavioral Intent				
5a. Protective	37	30	7	81.1%
5c. Opposing parental request, not necessarily intent to harm	37	25	12	67.6%
5d. To get what he wants, may use intimidation	37	24	13	64.9%
5e. Controlling or intimidating as well as deliberate or premeditated. Intent to harm as a means to control	37	34	3	91.9%
6. Youth Attitude Toward Violence				
6c. Accepts violence if nothing else works	37	28	9	75.6%
6e. Accepts violence as preferred response	37	37	0	100.0%
7. Youth Attitudes Toward Change				
7a.. Believes he is justified but hopes he won't have to repeat	37	33	4	89.2%
7b. Believes behavior was wrong does not want to repeat	37	27	10	73.0%
7c. Will repeat if other options are not available	36	25	11	69.4%
7d. Ambivalent toward behavior change	37	29	8	78.4%
8. Parent's Primary Concern				
8a. Transfers blame to youth	37	34	3	92.0%

Note: Highlighted items had poor agreement that was not due to lack of variability in responses. These items were eliminated or rewritten for the final ADBTT.

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ModelsforChange
Systems Reform in Juvenile Justice

www.modelsforchange.net

An initiative supported by the John D.
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www.macfound.org

May 31, 2016

Mayor Muriel Bowser
Executive Office of the Mayor
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Members of the Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Dear Mayor Bowser and Councilmembers:

We, the undersigned organizations, strongly endorse Bill 21-0683, the "Comprehensive Youth Justice Amendment Act of 2016." This bill, introduced by Councilmember Kenyan McDuffie and co-introduced by six colleagues, would bring critical reforms to the District of Columbia's juvenile justice system that prioritize rehabilitation, reduce over-incarceration, restore judicial discretion, promote humane confinement, enhance agency oversight, and protect young immigrants.

We know that an overreliance on incarceration – especially when coupled with the inhumane practices of shackling, solitary confinement, and extreme sentences – irreparably harms the healthy development of our children and makes our city less safe. Housing youth in adult facilities limits their access to effective social services and behavioral health programs, while exposing them to further violence. Inappropriate adult environments re-traumatize young people, making it harder for them to successfully reintegrate into their communities upon release. Moreover, securely detaining low risk youth pre-trial removes them from the community-based services and connections they need to succeed, increasing the likelihood that they will reoffend. Finally, secure confinement is the wrong tactic for our youngest children, who desperately need supportive, age-appropriate environments that directly address the underlying causes of their behavior.

The "Comprehensive Youth Justice Amendment Act of 2016" limits the use of these ineffective and unjustifiably harsh tactics. The bill ensures that every detained young person will be housed in humane, age-appropriate and risk-appropriate facilities, supports the courts in the application of more age-appropriate sanctions, promotes restorative justice in prosecutions, protects young victims of abuse and neglect from deportation, and requires our government agencies to better track the success of their juvenile justice programming. Some of these overdue reforms align with nationwide trends. Other provisions of the bill will continue the District's rise as a national leader in youth justice.

Given our collective experience serving and advocating for young people and their families here and around the country, we know that this legislation is a step in the right direction. Therefore, we ask the Council of the District of Columbia to support the legislation as it moves forward. We ask the Mayor to ensure that the bill is signed into law, funded, and faithfully implemented.

Sincerely,

AccessYouth

African American Ministers In Action

Alliance of Concerned Men

Alliance for Justice & Education

Amara Legal Center

American Civil Liberties Union - DC

Campaign for the Fair Sentencing of Youth

Campaign for Youth Justice

Capital Area Immigrants' Rights Coalition

CARECEN

Catholic Charities of the Archdiocese of Washington

Children's Center for Law and Policy

Children's Law Center

Clínica del Pueblo

Council for Court Excellence

Council of Churches, Greater Washington

Critical Exposure Fellows

DC Association of Criminal Defense Lawyers

DC Alliance of Youth Advocates

DC Law Students in Court

DC Lawyers for Youth

DC Scores

Fair Budget Coalition

Free Minds Book Club and Writing Workshop

Georgetown Juvenile Justice Clinic & Initiative

HIPS

Jews United for Justice

Justice for Juniors, Baptist College Chaplaincy

Justice Policy Institute

Kids in Need of Defense

Kid Power Inc.

Latin American Youth Center

Law for Black Lives – DC

Life Pieces to Masterpieces

Metropolitan African Methodist Episcopal Church

MICAH Leadership Council

Mid-Atlantic Juvenile Defender Center

NAACP – DC Branch

National Juvenile Justice Network

National Association of Social Workers (NASW), DC Metro Chapter

Open City Advocates

Peace with Justice Ministry of Foundry UMC

Refugee & Immigration Ministries, Christian Church (Disciples of Christ) in the US & Canada

Rights4Girls

Sasha Bruce Youthwork

SchoolTalk

Sitar Arts Center

Stand Up for Kids DC

Stop Police Terror Project

The DC Center for the LGBT Community

The DC Prisoners' Project,
Washington Lawyers Committee for Civil Rights & Urban Affairs

The Propel Foundation, Incorporated

The Sentencing Project

The Took Crowell Institute for Youth,
U.D.C. David A. Clarke School of Law

Whitman Walker Health

Young Women's Project

Council for Court Excellence
Improving Justice for the Community

Statement of

Irvin Nathan and Emily Tatro

of the Council for Court Excellence

before the

Committee on the Judiciary

Council of the District of Columbia

B21-0683

Comprehensive Youth Justice Amendment Act of 2016

June 2, 2016

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Tel: 202.785.5917 • Fax: 202.785.5922
www.courtexcellence.org

Good morning Chairman McDuffie and members of the committee. My name is Irvin Nathan, and with me today is Emily Tatro. I was formerly the Attorney General for the District of Columbia and am currently the President of the Council for Court Excellence ("CCE"). Ms. Tatro is a Policy Analyst at CCE.

My testimony today addresses B21-0683, the Comprehensive Youth Justice Amendment Act of 2016 (the Act). I appear today on behalf of CCE , a local nonpartisan civic organization founded in 1982 to improve the administration of justice in the courts and related agencies in the District of Columbia.

For 34 years, CCE has been a unique resource that brings together members of the civic, legal, business, and judicial communities to work in common purpose to identify and promote court reforms, improve public access to justice, and increase public understanding and support of our justice system. To be clear, however, no judicial member of CCE participated in the formulation of this testimony.

CCE has worked closely with the DC Council and the Committee on the Judiciary on many issues, including the 1994 Probate Reform Act, the Office of Administrative Hearings Establishment Act of 2001 and subsequent amendments, as well as on a number of sentencing-related matters. In June 2005, we testified before the Judiciary Committee in joint hearings with the Committee on Health regarding persons with mental health diagnoses in the DC Jail and Correctional Treatment Facility. In 2006, the CCE Expungement Subcommittee proposed legislation that was largely adopted as the Criminal Record Sealing Act of 2006, and, in 2012,

several recommendations from our 2011 report on unemployment and recidivism were incorporated into the DC Re-Entry Facilitation Amendment Act.

We support the goals of the Comprehensive Youth Justice Amendment Act, which seeks to strengthen rehabilitation of our youth in the juvenile justice system in age appropriate ways, and to provide for humane treatment of incarcerated youth, consistent with the need for public safety and the safety of judges, court personnel, and law enforcement officials. In general, we support the purpose of the legislation, but want to emphasize that no unreasonable burdens should be placed on those charged with prosecuting or administering juvenile justice.

Our testimony today will highlight the importance of implementing the Act from a research and policy perspective. CCE works to ensure that the District of Columbia's juvenile justice system operates under policies and practices that are evidence-based, ensure due process, make available transparent performance data while protecting confidentiality, and are accountable to the community. We believe the Act helps to achieve those goals, especially in the areas of data analysis and public education.

I. Data Analysis Regarding Diversion Programs

The Comprehensive Youth Justice Amendment Act makes significant strides, not only in improving conditions for incarcerated juveniles, but also in providing for data collection, both of which can help us understand the root causes of juvenile crime in DC and whether the programs established to prevent recidivism are working. The Act requires the Department of Youth Rehabilitation Services (DYRS) to analyze the root causes of juvenile crime, specifically within its committed population, and allows certain agencies to access confidential information for the

purpose of evaluating the efficacy of diversion programs. We support the sharing of information among DC agencies for this limited purpose.

Diversion programs are extremely important because they can prevent future stigmatization of youth that have been involved in the juvenile justice system. They also help to alleviate the burden on juvenile courts and keep youth out of correctional facilities and in the community.[1] Studies in other states have shown that diversion programs result in lower recidivism rates among those enrolled in such programs as compared to youth who have been put through the juvenile justice system. [2]

Collecting data on the outcomes of juvenile diversion in the District will enable us to analyze the effectiveness of current diversion programs in DC, determine how to improve them, and potentially expand those that are operating at the highest levels. Similarly, analyzing the root causes of juvenile crime and their unique interactions in the District will inform policy makers who are responsible for designing future preventative measures, which can lead to a long-term reduction in the juvenile crime rate.

We agree that data collection and analysis are necessary to determine the root causes of juvenile offenses in DC, but are concerned that DYRS does not have the capacity or expertise to conduct this study on its own. CCE suggests that the Mayor's office be authorized to assemble a task force including representatives of all stakeholder agencies for this purpose and to submit to

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[1] See, e.g., Frazier, Charles E., Cochran, John K. *Official Intervention, Diversion from the Juvenile Justice System, and Dynamics of Human Services Work: Effects of a Reform Goal Based on Labeling Theory* (1986).

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The manual that DYRS will be required to publish will complement CCE's guide. The manual will focus on explaining DYRS operations at the Youth Services Center and New Beginnings. In addition, the manual will address how to communicate effectively with your case manager and how to better understand the terms of youth supervision.

CCE recognizes the positive impact that knowledge about the court system can have on the community at large as well as the importance of that knowledge. Informing youth and their families leads to transparency within the legal system and ensures that the legal rights of all persons are being protected and upheld.

We suggest amending the bill to clarify that DYRS is empowered to contract the drafting and publishing of such a manual to an expert on community legal education and that the distribution of the manual should remain the sole responsibility of DYRS.

Conclusion

CCE encourages the DC Council to seriously consider the Comprehensive Youth Justice Amendment Act. We believe the data collection and resource manuals will be pivotal in evaluating the efficacy of our current juvenile justice system, creating better policies and practices to prevent recidivism, and taking preventative steps to make sure fewer youth enter DC's juvenile justice system. The portions of the Act we have highlighted represent a strong commitment to implementing best practices for juvenile offenders and create resources that will encourage long-term change.

Thank you.

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Council for Court Excellence
Improving Justice for the Community

Statement of

Irvin Nathan and Emily Tatro

of the Council for Court Excellence

before the

Committee on the Judiciary

Council of the District of Columbia

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the Council within 18 months a report on its conclusions. Annual updates seem more burdensome than useful, so it would be beneficial to update the report periodically, perhaps every five years, instead.

II. Department of Youth Rehabilitation Services Manual

The Act also mandates that DYRS publish a manual with information on DYRS operations and resources for youths and families in the community. CCE has first-hand knowledge of the importance and impact of providing resource guides for the community. In 2009, CCE published the first-ever written guide to the District's juvenile justice system, "Guide to the District's Juvenile Justice System" (guide). More than 13,000 copies have been distributed in English and Spanish over the last 7 years. It is one of our most highly requested legal guides and has been used as an educational tool by DC Public Libraries, the Office of the Attorney General, the Child and Family Services Agency, the Department of Youth Rehabilitation Services, and the Superior Court of the District of Columbia.

CCE's guide provides information on navigating the court, from investigation to adjudication to disposition. Additionally, it highlights the responsibilities an attorney has to a juvenile defendant, the resources available for victims and eyewitnesses, and ways in which to contact the government agencies that make up the juvenile system. The widespread dissemination of knowledge about these aspects of the District's juvenile justice system has a positive effect on the community, helping youth and their families navigate the system which has such a great impact on their lives.

The manual that DYRS will be required to publish will complement CCE's guide. The manual will focus on explaining DYRS operations at the Youth Services Center and New Beginnings. In addition, the manual will address how to communicate effectively with your case manager and how to better understand the terms of youth supervision.

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Thank you.

CAMPAIGN FOR
YOUTH JUSTICE
BRINGING THE CONSEQUENCES ADULT MINDS

TESTIMONY
CAMPAIGN FOR YOUTH JUSTICE

BEFORE THE DC COUNCIL PUBLIC SAFETY AND THE JUDICIARY COMMITTEE

HEARING ON BILL 21-0683
THE COMPREHENSIVE YOUTH JUSTICE AMENDMENT ACT OF 2016

JUNE 2, 2016

Chairman McDuffie and members of the Judiciary, thank you for providing me the opportunity to testify today on behalf of the Campaign for Youth Justice in support of Bill 21-0683, the Comprehensive Youth Justice Amendment Act of 2016. My name is Marcy Mistrett and I am the CEO for the Campaign for Youth Justice, a national organization working to end the practice of prosecuting youth in adult court and to promote more effective approaches in the juvenile justice system as an alternative. I am also a Ward 5 resident, and have lived in this city for 30 years, working in youth development and advocacy across the city.

Our organization, along with many other organizations and individuals here in the District, has serious concerns about the transfer of youth to the adult criminal court and placement of youth under age 18 in the Correctional Treatment Facility. The National landscape is changing, and I am here to encourage D.C. to follow the research and also implement what works to keep communities and youth safe. In the short, ten years our Campaign has existed, 30 states have passed more than 50 laws that roll back policies that treat youth as adults in the criminal justice system.

While our organization supports this bill in full, today I am going to speak to one small part of the bill—the removal of youth who are charged as adults from the Correctional Treatment Facility while they are awaiting trial. Pretrial detention casts too wide a net and exposes youth to trauma that, in addition to scarring youth, likely increases recidivism. While this is a critical reform in DC, one fully supported by research and practice, it is merely a first step in what we are hoping leads to stronger reforms for this population in the future. I would like to thank Chairman McDuffie for introducing this comprehensive legislation and look forward to working to move the Act through the Council this session.

THE COMPREHENSIVE YOUTH JUSTICE AMENDMENT ACT OF 2016

The Comprehensive Youth Justice Amendment Act Of 2016 would move the District one step in the right direction for youth under 18 charged as adults in the DC Criminal Division, by keeping the District's youth out of the Correctional Treatment Facility - a detention facility created and designed for adults. Under current DC law, youth as young as 15 who are charged as adults and who are detained pre-trial are held in the Correctional Treatment Facility. This bill would end the placement of youth under the age of 18 in the Correctional Treatment Facility except in very limited circumstances.

The Dangers of Placing Youth in Adult Jails:

Pretrial detention—the jailing of defendants in the criminal justice system before conviction, acquittal, or sentencing occurs—casts too wide a net and exposes youth to trauma that, in addition to scarring the youth, likely increases recidivism. The specific topic of the dangers facing youth in adult jails pre-trial was addressed in a November, 2007 report by the Campaign for Youth Justice entitled "*Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America*," and also in a June 2009 report by the Prison Rape Elimination Act Commission which documented the negative impacts on youth of placing them in adult jails. The National Prison Rape Elimination Commission found that, "more than any other group of incarcerated persons, youth incarcerated with adults are probably at the highest risk for sexual abuse." As a result, PREA instituted the Youthful Inmate Standard, which requires the separation of youth under age 18 from being housed with adults in correctional institutions. It further requires the supervision of youth under age 18 in any location outside of the housing units.

The "Jailing Juveniles" report showed that it is extremely difficult to keep children safe in adult jails. Youth placed in adult jails are at risk of physical and sexual assault. According to the U.S. Department of Justice's Bureau of Justice Statistics (BJS), 21% and 13% of all substantiated victims of inmate-on-inmate sexual violence in jails in 2005 and 2006 respectively, were youth under the age of 18. These numbers are surprisingly high given that only 1% of jail inmates are juveniles. Over 60% of those youth who self-reported sexual abuse in the survey did not report this to the facility or family. One can only imagine how many more unreported sexual abuses occur to youth in adult facilities.

In the District, male youth are placed in a separate section of the jail. However, as "Jailing Juveniles" shows, this is not an adequate response. While separating children from adults in adult jails will reduce contact with adults that could result in physical or emotional harm to children, children are then often placed in isolation, which can also produce harmful consequences (as cited in other parts of

this bill). However, youth in adult facilities are frequently locked down 23 hours a day in small cells with no natural light. These conditions can cause anxiety, paranoia, and exacerbate existing mental disorders and put youth at risk of suicide. Youth have the highest suicide rates of all inmates in jails. Youth are 36 times more likely to commit suicide in an adult jail than in a juvenile detention facility, and 20 times more likely to commit suicide in an adult jail than youth in the general population. An article published this week in *CorrectCare*, the quarterly magazine of the National Commission on Correctional Health Care, reported that youth under age 20 in adult facilities have the HIGHEST RATES OF TIME IN RESTRICTIVE HOUSING!

For these reasons, thirteen states (Our neighbors, Maryland and Virginia, as well as Pennsylvania, Texas, Oregon, Ohio, Colorado, Nevada, Maine, Idaho, Indiana, and Pennsylvania) have legislatively acted to remove youth from adult jails pre trail. The majority of states allow youth under 18 (and some up to age 25) who are sentenced as adults to remain in the juvenile system to start their sentences.

Studies of DC Jail conclude that it is inadequate for youth:

In 2008, a study conducted by Dr. Jennifer Woolard of Georgetown University highlighted inhumane conditions of confinement as well as serious flaws in programming for youth in the Juvenile Unit at the D.C. Jail. The D.C. Department of Corrections released the report and Dr. Woolard testified on the findings before a joint hearing of the Judiciary and Human Services Committees.

The report showed that nearly all of the youth held at the D.C. Jail were youth of color; most of the youth at the jail are not charged with FBI "index crimes", considered to be the most serious offenses; and only slightly more than half the youth held at the jail are actually convicted.

In addition, the report noted recent changes in the educational services, mental health services and programming at the jail for this population. However, the report's authors noted that most of these changes appeared to have been initiated or enacted less than a week before the report was concluded. A few months later, the youth were moved to a Juvenile Unit at the Correctional Treatment Facility (CTF), an adult jail next to the D.C. Jail, so the findings were no longer relevant.

In a remarkably similar report, in 2013 Ridley Group and Associates (Ridley Group), a criminal justice consulting firm, was tasked with identifying the strengths and weaknesses in current operations of the CTF's Juvenile Unit. In a three-month period beginning in April, 2013 and ending in July, 2013, the Ridley Group observed the Juvenile Unit programs, interviewed staff, supervisors, and the youth, analyzed existing mental health services and surveyed best practice trends around the country.

The Ridley Group interviews showed that youth were placed in Administrative Segregation, a term for solitary confinement, for up to 2 months at a time with only 1 hour of daily recreation. According to interviews of the youth by the Ridley Group these youth were never told the reason for their isolation. The Ridley Group analysis showed that there is a lack of programming and structured activities which research has proven necessary to alter behavior in detention facilities, especially for youth. The report highlighted the dearth of programming during the week and even more so during the weekends, when no programs are allowed into the CTF. A glaring concern recognized by the Ridley Group was that there was absolutely no programming for the one female youth held at the CTF because she is housed in the women's unit.

While I recognize that there have been recent efforts to bring more developmentally appropriate services and programs to the youth unit at CTF, the research remains clear—housing youth in adult facilities does great harm to children.

Impact of prosecuting DC youth as adults:

In 2014, the Campaign for Youth Justice and DC Lawyers for Youth launched a research project to examine the impact of prosecuting youth in the adult criminal court in the District and the placement of these youth in the Correctional Treatment Facility. We released a report entitled *Capital City Correction: Reforming DC's Use of Adult Incarceration Against Youth.*

That report found the following regarding youth in the DC Adult System:

(1) Between 2007-2012, 541 youth were tried as adults in DC and held at Correctional Treatment Facility

(2) 99% of youth held at the CTF are youth of color

(3) Most of these youth are prosecuted in adult court without the benefit of a hearing by a juvenile court judge;

(4) Youth prosecuted in the adult criminal justice system are held in the Correctional Treatment Facility, an adult facility run by the Department of Corrections where there is a dearth of youth appropriate activities and programs.

(5) Some youth have spent up to 23 ½ hours a day locked in their cells;

(6) Youth cannot be returned to the juvenile justice system even if a judge determines that a child could benefit from the rehabilitative services in the juvenile justice system because DC law does not provide a either a "reverse waiver" mechanism; and

(7) Youth are not eligible for the expanded rehabilitative services provided by the Department of Youth Rehabilitation Services (DYRS) under the Omnibus Juvenile Justice Amendment Act of 2004 (D.C. Law 15-261), approved by the DC Council.

National Research and Data Supports the Removal of Youth from the Adult System:

The consequences of an adult conviction for a youth are serious, negative and life-long. A criminal conviction for a young person carries the same stigma as it does for an adult, but with even greater adverse impact: youth in the adult criminal justice system often have difficulty finishing school or gaining access to a post-secondary education, denied scholarship funding or admissions to community colleges or universities based on their conviction. The majority of youth tried as adults in DC WILL return to the community before they are 30. The above mentioned opportunities are forever lost.

Evidence from three decades of government data and adolescent psychological research points to one conclusion: States (and DC) can improve justice for youth and public safety by removing children from adult jails. Prosecuting youth charged with serious offenses was originally thought to improve public safety. But an overwhelming body of research shows that prosecuting youth as adults does not accomplish that purpose. Research demonstrated unequivocally that trying and sentencing children in adult court does not reduce crime; in fact, it does just the opposite. Youth who are prosecuted in adult court are more likely to recidivate than their counterparts in the juvenile justice system. This creates more victims, not less. The reality, then, is that trying youth as adults has both a detrimental impact on youth and harms public safety. This is a research-based conclusion, not an emotional one.

I will briefly highlight three of the major studies and their conclusions:

1. A task force with the Center for Disease Control and Prevention (CDC) task force in 2007 examined every study on transfer policies that was in a published journal or had been conducted by a government agency.[1] The task force checked to make sure each study compared the same kind of youth charged with comparable offenses, recognizing that youth who are prosecuted in adult court may be charged with more serious offenses, or may have more serious backgrounds that make them different from youth in the juvenile system. The CDC incorporated those factors into its analysis.

[1] Centers for Disease Control and Prevention. (2007) Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: A Report on Recommendations of the Task Force on Community Prevention Services.

Findings from the task force concluded:

- Prosecution of juveniles in the criminal justice system jeopardizes public safety because youth are more likely to commit additional crimes if prosecuted in the adult system. The task force found that juveniles prosecuted in the criminal system are approximately 34 percent more likely than youth retained in the juvenile court system to be rearrested for violent or other crime.
- Prosecuting youth as adults puts youth directly in danger because juveniles are often victimized in adult facilities and are at a much higher risk for suicide. The review found that youth are 36 times more likely to commit suicide in an adult jail than in a juvenile detention facility.
- The CDC review found insufficient evidence to support the "deterrence theory" used as a common rationale for expanded adult prosecution policies. The "deterrence theory" hypothesizes that adult prosecution is a general deterrent to prevent youth from committing crimes in the first place. The review found this not to be true, as well as finding no evidence to support a specific deterrence effect on youth who are tried in the adult system.

2. In 2010, the Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP) released a research bulletin. OJJDP's findings mirrored those in the CDC report and amplified findings that laws that make it easier to transfer youth to the adult criminal court system have little or no general deterrent effect.[2] **Simply stated, transferring youth to the adult criminal justice system does not deter youth from engaging in criminal behavior.**

   OJJDP found that youth prosecuted in the adult system are more likely to be rearrested and to reoffend than youth who committed similar crimes, but were retained in the juvenile justice system. In addition, the OJJDP report explored why youth have higher recidivism rates.

3. In December 2012, the **Attorney General's National Task Force on Children Exposed to Violence** (Task Force) released its recommendations after an exhaustive year-long examination on best practices and approaches to reducing childrens' exposure to violence.[3] Through extensive public hearings, the Task Force heard from directly affected youth and their families

[2] Richard E. Redding, *Juvenile transfer laws: An effective deterrent to delinquency?* (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (June 2010).
[3] REPORT OF THE ATTORNEY GENERAL'S NATIONAL TASK FORCE ON CHILDREN EXPOSED TO VIOLENCE (Dec. 2012).

about the violence children are exposed to in the justice system. Among the extensive set of recommendations, the task force report included a chapter on reducing exposure of children to violence in the justice system with a recommendation to abandon policies that prosecute, incarcerate or sentence youth under 18 in adult criminal court.

According to the Task Force's report, "We should stop treating juvenile offenders as if they were adults, prosecuting them as adults in adult courts, incarcerating them as adults, and sentencing them to harsh punishments that ignore their capacity to grow."[4] The Task Force's recommendation is consistent with the research across the nation undertaken by the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the federal Centers for Disease Control and Prevention highlighting the ineffectiveness of juvenile transfer laws at providing a deterrent for juvenile delinquency and decreasing recidivism.[5]

National Organizations Support Removing Youth from the Adult System:

Jailing children without a conviction presents a human rights dilemma, and the American Bar Association (ABA) and Institute of Judicial Administration "unequivocally oppose" the practice. This resolution was based on seven pillars including that: youth are developmentally different from adults; the pretrial release or detention decisions regarding youth should reflect their special characteristics; young people who are detained or incarcerated should be housed in separate facilities from adults; and detained or incarcerated youths should be provided programs that address their educational, treatment, health, mental, and vocational needs.

Attached to my testimony are position statements from other national organizations as well such as the Council of Juvenile Correctional Administrators, the American Correctional Association, the National Association of Counties, the National Parent Teacher Association, the American Jail Association, and the Coalition for Juvenile Justice. *(See Appendix A)*

Need for Consideration of Additional Reforms:

Most other jurisdictions across the nation provide one of two procedural safeguards to create a check-and-balance system for youth tried in adult court. The first type of safeguard is a "reverse waiver," which allows youth prosecuted as adults in criminal court to file a motion and have a hearing at

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[4] *Id.* at 190.

[5] *See* Richard E. Redding, *Juvenile Transfer Laws: An Effective Deterrent To Delinquency?*, JUV. JUST. BULL., OFC. JUV. JUST. DELQ. PREV. (June 2010). *See also* CENTER FOR DISEASE CONTROL AND PREVENTION, EFFECTS ON VIOLENCE OF LAWS AND POLICIES FACILITATING THE TRANSFER OF YOUTH FROM THE JUVENILE TO THE ADULT JUSTICE SYSTEM (2007).

which a judicial officer decides whether to send the case back to juvenile court. Reverse waiver ensures that youth who are amenable to the rehabilitative treatment in the juvenile justice system have the opportunity to receive such care. Twenty five states have this procedure and this is the safeguard that the Youth Offender Accountability and Rehabilitation Act would incorporate into DC law. Currently, there is no check-and-balance system in DC for youth directly filed into the adult system.

The second type of safeguard is a "judicial transfer," which would require prosecutions of youth as adult felons to be approved by the juvenile court. Each of these options allows judges to determine, on a case-by-case basis, whether a youth should be prosecuted in adult court or whether they should be treated in the juvenile justice system.

Only 15 states, including DC, allow youth to be automatically prosecuted, without any judicial review, in adult court on the motion of the prosecutor. Eleven of those states have a reverse waiver mechanism for even the most allegedly violent offenders. (*See Appendix B with a state by state analysis.*)

The Campaign for Youth Justice strongly urges the DC Council to review these practices and seek further reforms in the future.

Recommendations:

The bottom line is that jails, and the Correctional Treatment Facility is no exception, are simply not equipped to protect youth from the dangers of adult jails. Nor do jails have the capacity to provide necessary educational or other developmentally appropriate services. Jail administrators, such as the DC Department of Corrections, can strive to keep youth safe once they are in the jail, but they are not responsible for how many youth enter their facilities. Transfer laws such as those found in DC flood the adult system with young people who would be better served in the juvenile justice system. We know from the research that this approach does not promote public safety and that there are no research findings that show that prosecution of youth in adult court or placement of youth in adult jails increase public safety. The good news is that we have an alternative that works and so the District does not have to continue along a course that does not work to promote public safety.

In light of research, national trends, and the improvements to the juvenile justice system in the District, we strongly recommend that the Council pass the Comprehensive Youth Justice Amendment Act Of 2016. This bill will make significant progress on having humane, research-driven treatment for youth in the District. Thank you for your time and consideration.

APPENDIX A

Snapshot of National Organizations' Policy Statements on Youth in the Adult Criminal Justice System

An estimated 200,000 youth are prosecuted in the adult criminal justice system every year, and nearly 10,000 youth are locked in adult jails or prisons on any given day. The adult criminal justice system is not set up to adequately manage youth offenders. Developmental studies have shown that youth are ill-prepared to actively participate in adult court proceedings, and are unable to adequately recognize the long-term consequences of their legal decisions. Judges and attorneys in adult criminal court often have little to no experience with young offenders, and once convicted, system stakeholders may not be familiar with age appropriate programs and resources to help children.

The consequences of an adult criminal conviction for youth are serious, negative, life-long, and severely impair youth chances at future success. Youth tried in adult criminal courts can lose access to student financial aid and their right to vote; making it even more difficult for youth to achieve positive outcomes by obtaining an education, gainful employment, and participating in the democratic process. Most states allow employers to deny jobs to people with adult criminal records, regardless of the age at conviction or how minor the offense.

The public strongly supports investing in rehabilitative approaches to help youth instead of prosecuting youth in adult court or placing youth in adult jails and prisons. A national survey released in October, 2011 conducted on behalf of the Campaign for Youth Justice reveals that Americans are squarely on the side of reforming our youth justice system– with a greater focus on rigorous rehabilitation over incarceration, and against placing youth in adult jails and prisons.[1] The public strongly favors rehabilitation and treatment approaches, such as counseling, education, treatment, restitution, and community service, rejects the placement of youth in adult jails and prisons, and strongly favors individualized determinations on a case-by-case basis by juvenile court judges in the juvenile justice system than automatic prosecution in adult criminal court.

Studies across the nation have consistently concluded that juvenile transfer laws are ineffective at deterring crime and reducing recidivism. The Office of Juvenile Justice and Delinquency Prevention (OJJDP) released a report highlighting the ineffectiveness of juvenile transfer laws at providing a deterrent for juvenile delinquency and decreasing recidivism and the federal Centers for Disease Control and Prevention released a report with similar findings.[2]

States have started to take action to remove youth from the adult criminal justice system and from adult jails and prisons. The National Conference of State Legislatures (NCSL) released a report in August, 2012, *Juvenile Justice Trends in State Legislation, 2001-2011*, that shows trends in juvenile justice state legislation over the past decade reducing the prosecution of youth in adult criminal court with legislators using a growing body of research on adolescent development and responding to this by changing state policies such as expanding the jurisdiction of juvenile courts by increasing the upper age of jurisdiction.

The overwhelming consensus of diverse organizations ranging from the American Correctional Association to the National Association of Counties is that:

1. Youth should never be automatically prosecuted in the adult criminal court.
2. Youth charged with non-violent offenses and first-time offenders should not be prosecuted in adult criminal court.
3. Youth should be removed from adult jails and prisons.
4. Youth should be treated in a developmentally appropriate manner throughout the justice system.
5. Harsh sentences for youth, such as mandatory minimums, should be eliminated.

Copies of the policy statements and guidelines in their entirety can be found online at http://www.campaignforyouthjustice.org/research/cfyj-policy-briefs.

CAMPAIGN FOR YOUTH JUSTICE

BECAUSE THE CONSEQUENCES AREN'T MINOR

Youth Prosecuted in Adult Criminal Court

Key Policy Statements

"Transfer to adult court should not be automatic or a presumption in the handling of juvenile cases. . . Any transfer to criminal court should consider the individual case and the community, and not be based solely on the type of offense. Consideration of the case should include the mental health of the youth and its bearing on the charges."[3]

– *American Academy of Child and Adolescent Psychiatry*

"ABA opposes, in principle, the trend toward processing more and younger youth as adults in the criminal justice system."[4]

– *American Bar Association*

"ACA supports sentencing policies that hold youthful offenders accountable in an age-appropriate way, while focusing on rehabilitation and reintegration into society."[5]

– *American Correctional Association*

"Standard 1.1 C: No criminal court should have jurisdiction in any proceeding against any person whose alleged conduct would constitute an offense on which a juvenile court adjudication could be based if at the time the offense is alleged to have occurred such person was fifteen, sixteen, or seventeen years of age, unless the juvenile court has waived its jurisdiction over that person."[6]

"Standard 2.2 C. defines those circumstances...Subsection 1 requires that the juvenile be charged with a 'serious' class one or class two juvenile offense [which] are defined by the maximum sanctions that may be imposed. Most offenses likely to fall within the categories, such as murder, rape, and armed robbery, will be 'serious'...Only juveniles who pose genuine threats to community safety should be waived and exposed to the greater sanctions of the criminal court."[7]

– *Institute of Judicial Administration/ American Bar Association*

"Reform should specifically include [an] elimination of transfers for non-violent offenders [and] first-time offenders. Reform should specifically include [a] moratorium on the expansion of eligibility criteria for transfer."[8]

– *American Psychiatric Association*

"The APA supports procedures for responding to juvenile offenders that include explicit consideration of the level of development, the nature and impact of mental disorder, and the impact of legal decisions on the offender's access to appropriate care. The APA opposes statutes which permit or require juvenile suspects to be transferred or waived into adult court without judicial review."[9]

– *American Psychiatric Association*

"CJJ opposes trying and sentencing youth in adult criminal court, except in the rare case of a chronic and violent offender, and then only at the discretion of, and following an assessment by, a juvenile court judge...CJJ also opposes giving prosecutors the authority to transfer youth to adult court."[10]

– *Coalition for Juvenile Justice*

"When waiver to the adult criminal justice system does occur, CJCA believes that it should be accomplished through a process that maintains judicial decision-making to determine the appropriateness of transferring young offenders into the adult correctional system. CJCA opposes all policies that result in the automatic transfer of young people to the adult system without judicial review, as well as policies that grant the prosecutor full discretion."[11]

– *Council of Juvenile Correctional Administrators*

"This church supports an end to current practices of trying, sentencing, and incarcerating youth in the adult criminal justice system as well as ending youth sentences of life in prison without the possibility of parole...At the most fundamental level, this church calls for a juvenile justice system that more closely matches its original rehabilitative intent and is equipped to meet the needs and manage the risks of all youth offenders."[12]

– *Evangelical Lutheran Church of America*

"The Legal Needs of Children Committee of The Florida Bar opposes the direct filing of children to adult court in Florida and believes that the decision to prosecute children as adults should be made solely by the judiciary."[13]

– Legal Needs of Children Committee, *The Florida Bar Association*

"NACo opposes trying and sentencing youth in adult criminal court, except in the case of a chronic and violent offender, and then only at the discretion of a juvenile court judge...NACo supports that the decision to transfer a juvenile to adult court should be made by a juvenile court judge or jury...NACo supports the reform of state laws that inappropriately send far too many youth under the age of 18, including first-time and non-violent offenders into the adult criminal justice system."[14]

– *National Association of Counties*

"Current research confirms that the portion of the brain that controls and suppresses impulses, and is critical to good judgment and decision-making, is not fully developed in youth under age 18. Youth have difficulty thinking of consequences under stress and managing powerful impulses without adult help. Therefore, they should not be viewed as acting with the level of moral culpability that characterizes adult criminal conduct...NACo opposes trying and sentencing youth in adult criminal court, except in the case of a chronic and violent offender, and then only at the discretion of a juvenile court judge.[15]

– *National Association of Counties*

"Therefore, NASW opposes the incarceration of all youths under the age of 18 in the adult criminal justice system."[16]

– *National Association of Social Workers*

"[W]aiver and transfer decisions should only be made on an individual, case-by-case basis, and not on the basis of the statute allegedly violated; and affirms that the decision should be made by the juvenile delinquency court judge...[and] waiver and transfer of juveniles to adult court should be rare and only after a very thoroughly considered process."[17]

– *National Council of Juvenile and Family Court Judges*

"Based on the fact that public safety and youth rehabilitation are best served through the juvenile justice system, the cases of all youth who are under age 18 at the time of the alleged offense should be processed in juvenile court, regardless of the type of offense."[18]

– *The National Juvenile Justice Network*

Youth in Adult Facilities

Key Policy Statements

"Children and adolescents should be detained or incarcerated only in facilities with developmentally appropriate programs (or structure) and staff trained to deal with their unique needs. If children and adolescents must be housed in adult correctional care facilities, they should be separated from the adult population by sight and sound and provided with a developmentally appropriate environment."[19]

– *American Academy of Pediatrics*

"If detained or incarcerated, youth in the adult criminal justice system should be housed in institutions or facilities separate from adult facilities until at least their eighteenth birthday. Youth detained or incarcerated in the adult criminal justice system should be provided programs which address their educational, treatment, health, mental health, and vocational needs."[20]

– *American Bar Association*

"The American Correctional Association supports separate housing and special programming for youths under the age of majority who are transferred or sentenced to adult criminal jurisdiction...In those jurisdictions that continue to house youths under the age of majority in adult correctional/detention systems, hous[e] them in specialized facilities or units [that] have no sight or sound contact with adult offenders in living, program, dining or other common areas of the facility."[21]

"Therefore, correctional agencies should support the adoption of legislation in each state that authorizes correctional authorities to place people under the age of majority who are detained or sentenced as adults in a youthful offender unit distinct from the adult system..."[22]

– *American Correctional Association*

"[T]he American Jail Association [is] opposed in concept to housing juveniles in any jail unless that facility is specifically designed for juvenile detention and staffed with specially trained personnel."[23]

– *American Jail Association*

"Specialized facilities for transferred youth [should address] the developmental, educational, health, mental health, religious, and other special needs of these youth; and [be] adequately staffed with qualified workers to ensure safety and specialized programming."[24]

– *American Psychiatric Association*

"Counties are urged to remove juveniles from correctional facilities which detain accused or adjudicated adults."[25]

– *National Association of Counties*

"The National Commission on Correctional Health Care believes the incarceration of adolescents in adult correctional facilities is detrimental to the health and developmental well-being of youth...Adolescents should be separated and provided opportunities for appropriate peer interaction."[26]

– *National Commission on Correctional Health Care*

"The facility [should] be constructed in a way that eliminates even accidental or incidental sight, sound or physical contact between juvenile detainees and adult prisoners."[27]

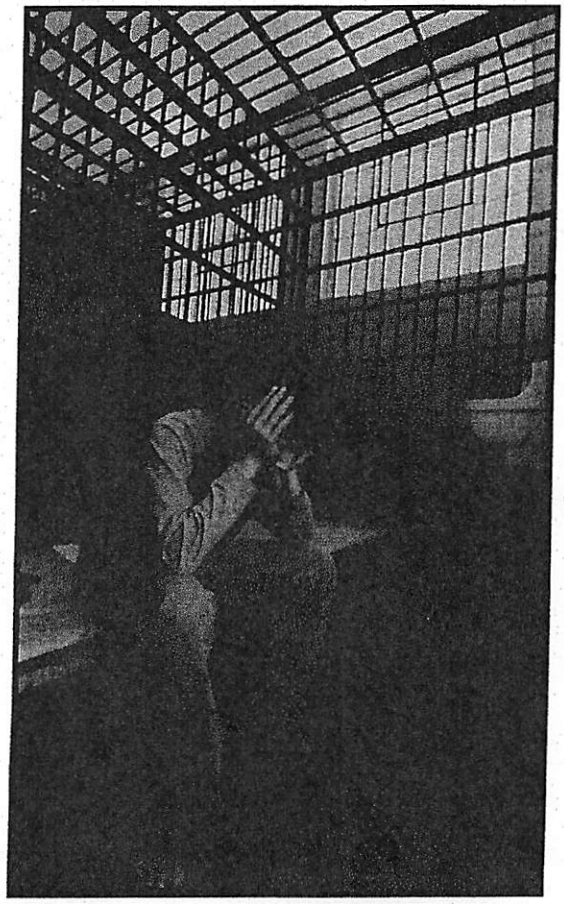
– *National Juvenile Detention Association*

"Rather than automatically sending older youth in the adult system, states should allow youth who enter the system prior to turning 18 to remain in the juvenile justice system into their early twenties."[28]

– *National Juvenile Justice Network*

"Nevertheless, it remains our belief that all juvenile offenders have the right to access rehabilitation and treatment services, which are fundamental principles of the juvenile justice system and of juvenile detention...It is the position of NPJS that waived or transferred juveniles accused of committing a crime and requiring temporary holding in a secure setting be held in a juvenile detention pending judicial determination to the contrary. NPJS opposes any action that places juveniles at risk of being victimized by adult offenders."[29]

– *National Partnership for Juvenile Services*



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Appendix - How a Youth Ends Up in the Adult Justice System[30]

Age of Juvenile Court Jurisdiction	These laws determine the age of adulthood for criminal justice purposes. They effectively remove certain age groups from the juvenile court control for all infractions, whether violent or non-violent, and place them within the adult court jurisdiction.
Transfer and Waiver Provisions	These laws allow young people to be prosecuted in adult courts if they are accused of committing certain crimes. A variety of mechanisms exist by which a youth can be transferred to adult court. Most states have transfer provisions, but they vary in how much authority they allow judges and prosecutors to exercise.
Judicial Waiver	This is the most traditional and common transfer and waiver provision. Under judicial waiver laws, the case originates in juvenile court. Under certain circumstances, the juvenile court judge has the authority to waive juvenile court jurisdiction and transfer the case to criminal court. Some states call the process "certification," "remand," or "bind over for criminal prosecution." Others "transfer" or "decline jurisdiction" rather than waiver. State statutes vary in how much guidance they provide judges on the criteria used in determining if a youth's case should be transferred.
Prosecutorial Waiver	These laws grant prosecutors discretion to file cases against young people in either juvenile or adult court. Such provisions are also known as "concurrent jurisdiction," "prosecutorial discretion," or "direct file."
Reverse Waiver	This is a mechanism to allow youth whose cases are being prosecuted in adult court to be transferred back down to the juvenile court system under certain circumstances.
Statutory or Legislative Exclusion	These laws exclude certain youth from juvenile court jurisdiction entirely by requiring particular types of cases to originate in criminal rather than juvenile court.
"Once an Adult, Always an Adult"	These laws require youth who have been tried as adults to be prosecuted automatically in adult courts for any subsequent offenses.
Blended Sentencing	These laws allow juvenile or adult courts to choose between juvenile and adult correctional sanctions in sentencing certain youth. Courts often will combine a juvenile sentence with a suspended adult sentence, which allows the youth to remain in the juvenile justice system as long as he or she is well-behaved.

To learn more about the laws in your state see, Office of Juvenile Justice and Delinquency Prevention, ***Trying Juveniles as Adults: An Analysis of State Transfer Laws and Reporting*** (September 2011).

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Revised September 2014

Appendix B
STATE SUMMARY OF DIRECT FILE STATUTES

OVERVIEW

States with prosecutor discretion/direct file (15):
Arizona, Arkansas, California, Colorado, District of Columbia, Florida, Georgia, Louisiana, Michigan, Montana, Nebraska, Oklahoma, Vermont, Virginia, Wyoming

States with direct file that also have reverse waiver (11):
Arizona, Arkansas, California, Colorado, Georgia, Montana, Nebraska, Oklahoma, Vermont, Virginia, Wyoming
(states not included are District of Columbia, Florida, Louisiana and Michigan)

DESCRIPTION OF DIRECT FILE AND REVERSE WAIVER BY STATE

STATE	DIRECT FILE	REVERSE WAIVER
ARIZONA	**Ariz. Rev. Stat. Ann. § 13-501** In a case meeting statutory age/offense criteria, "the county attorney may bring a criminal prosecution against a juvenile in the same manner as an adult." Where the ground for a direct file is that the child is alleged to be a "chronic felony offender" (that is, a child with at least two previous, separate felony adjudications and dispositions), the county attorney must file a notice to this effect at the time the complaint or indictment is filed. Upon the child's motion, the court must hold a hearing to determine whether the child is a chronic felony offender (see	**Ariz. Rev. Stat. Ann. § 13-501** A juvenile who is being criminally prosecuted as a "chronic felony offender" (that is, a child with at least two previous, separate felony adjudications and dispositions for conduct that would have been felonious if committed by an adult) is entitled to demand a post-arraignment, pretrial hearing in criminal court on the question of whether he or she qualifies as a chronic felony offender. If the county attorney fails to establish by a preponderance of the evidence that the child is a chronic felony offender, the court must transfer the child to juvenile court. *(language from JJGPS website)*

	and moves for a transfer to juvenile court, the criminal court must grant the motion. *(language from JJGPS website)* • *Offense*: Certain felony offense *Minimum Ages*: 14 *Description*: Class 1 and 2 felonies; a class 3 felony involving a violation of any part of a number of listed Criminal Code chapters (relating to preparatory offenses, homicide, assault, kidnapping, sexual offenses, trespass and burglary, property damage, arson, robbery, organized crime and fraud); class 3, 4, 5 or 6 felonies involving a dangerous offense; any felony committed by a child with at least two previous, separate felony adjudications and dispositions; any offense joined to/arising out of the same set of facts as any of the above offenses.	If during the pendency of a criminal charge in any court of this state the court determines that the defendant is a juvenile who is not subject to prosecution as an adult pursuant to § 13-501, the court shall transfer the case to the juvenile court, together with all of the original accusatory pleadings and other papers, documents and transcripts of any testimony relating to the case… The juvenile court shall then proceed with all further proceedings as if a petition alleging delinquency had been filed with the juvenile court under § 8-301 on the effective date of the transfer. This subsection does not apply to a juvenile who is subject to prosecution pursuant to § 13-501 but who is convicted of an offense not listed in § 13-501. *(language from statute)*
ARKANSAS	**Ark. Code Ann. § 9-27-318** The juvenile and criminal divisions of the circuit court have concurrent jurisdiction over a number of listed age/offense categories. If charges are filed against a juvenile in the criminal division of the circuit court, additional nonconcurrent charges arising out of the same incident may be filed there as well, but only if, after a hearing in the juvenile division, a motion to transfer is granted. Note: A case meeting age/offense criteria for concurrent jurisdiction, even if initially filed in the juvenile division, is subject to discretionary transfer to the criminal division of the circuit court upon the motion of the court or any party. (See Discretionary Waiver.) Likewise, after such a case is	**Ark. Code Ann. § 9-27-318** The criminal division of the circuit court may transfer any case in which it has concurrent jurisdiction with the juvenile division, after a hearing on its own motion or that of any party. The law specifies various factors that must be considered in making the determination. A finding that a juvenile should be tried as an adult must be supported by clear and convincing evidence. Any party may appeal an order granting or denying a transfer. *(language from JJGPS website)*

	initially filed in the criminal division of the circuit court, it may still be transferred to the juvenile division upon the motion of the court or any party. (See Reverse Waiver.) *(language from JJGPS website)* • *Offense*: Certain felony offense *Minimum Ages*: 16 *Description*: Any felony • *Offense*: Capital offense *Minimum Ages*: 14 *Description*: Capital murder • *Offense*: Murder *Minimum Ages*: 14 *Description*: First degree murder • *Offense*: Person *Minimum Ages*: 14 *Description*: Kidnapping, aggravated robbery, rape, first degree battery, and terroristic acts.	
CALIFORNIA ***(NB: Active ballot initiative to challenge this in 2016).***	**Cal. Welf. & Inst. Code § 707** For various age/offense categories, a prosecutor "may file an accusatory pleading in a court of criminal jurisdiction." Generally, direct file authority is given to prosecutors only where the accused was at least 16 at the time of the alleged offense. However, an exception is made in any case involving a 14-year-old accused of a capital crime or the personal use of a firearm in the commission of a felony. In addition, the law specifies four aggravating circumstances under which, if the offense is one that would otherwise qualify for direct file treatment, the prosecutor may proceed directly in criminal court against a child of 14 or 15: (1) the minor has previously been found to have committed an offense qualifying for presumptive waiver; (2) the	**Cal. Welf. & Inst. Code § 707(a)(3)&(d)(6), 707.2 (a), & 1732.6; Penal Code, § 1170.17, 1170.19; Cal. Rules of Court 4.510** In certain cases, following a juvenile's conviction in a court of criminal jurisdiction, the law nevertheless authorizes the court to remand the case for disposition in juvenile court. (The same provisions authorize the criminal court to impose a juvenile disposition directly; see discussion of criminal blended sentencing provisions, below, for circumstances in which a juvenile disposition or remand are available.) *(language from JJGPS website)*

	offense was committed for the benefit of, at the direction of, or in association with a criminal street gang; (3) the offense was a bias crime; or (4) the victim was elderly or disabled. *(language from JJGPS website)* • *Offense*: Certain felony offense *Minimum Ages*: 14 *Description*: Any felony in which the minor personally used a firearm; any felony in which the minor used one of various listed illegal weapons and one of the statutory aggravating circumstances applies • *Offense*: Certain felony offense *Minimum Ages*: 16 *Description*: Any felony in which the minor used one of various listed illegal weapons; any felony that qualifies as a gang crime or a bias crime, or in which the victim was elderly or disabled, if it is committed by one who has previously been found to have committed a felony after attaining the age of 14 • *Offense*: Capital offense *Minimum Ages*: 14 *Description*: Any offense punishable by death or life imprisonment • *Offense*: Murder *Minimum Ages*: 14 *Description*: Any of the above where statutory aggravating circumstances apply. • *Offense*: Murder *Minimum Ages*: 16 *Description*: Murder, attempted murder, voluntary manslaughter	

	• *Offense*: Person *Minimum Ages*: 14 *Description*: Any of the above where statutory aggravating circumstances apply • *Offense*: Person *Minimum Ages*: 16 *Description*: Robbery; violent/forcible rape, sodomy, or oral copulation, certain lewd or lascivious acts, and penetration with a foreign object; kidnapping for ransom or robbery, kidnapping causing bodily harm, and kidnapping of a child under 14; assault with a firearm, destructive device, or any means of force likely to produce serious injury; certain crimes against elderly, blind, or disabled victims; witness/victim bribery or intimidation; any violent felony committed for the benefit of, at the direction of, or in association with a criminal street gang; escape resulting in injury to a juvenile facility employee; torture; aggravated mayhem; armed carjacking, or carjacking in which a victim is kidnapped; explosion, ignition, or attempt to explode or ignite any explosive or destructive device with intent to kill; and firing a gun into an inhabited or occupied building or from a motor vehicle • *Offense*: Property *Minimum Ages*: 14 *Description*: Arson where statutory aggravating circumstances apply • *Offense*: Property *Minimum Ages*: 16 *Description*: Arson	

	• *Offense*: Drug *Minimum Ages*: 14 *Description*: Any of the above where statutory aggravating circumstances apply • *Offense*: Drug *Minimum Ages*: 16 *Description*: Manufacturing, compounding, or selling at least half an ounce of any of various listed controlled substances	
COLORADO	**Colo. Rev. Stat. Ann. § 19-2-517** (1) A juvenile may be charged by the direct filing of an information in the district court or by indictment only if: (a) The juvenile is sixteen years of age or older at the time of the commission of the alleged offense and: (I) Is alleged to have committed a class 1 or class 2 felony; or (II) Is alleged to have committed a sexual assault that is a crime of violence pursuant to section 18-1.3-406, C.R.S., or a sexual assault under the circumstances described in section 18-3-402(5)(a), C.R.S.; or (III)(A) Is alleged to have committed a felony enumerated as a crime of violence pursuant to section 18-1.3-406, C.R.S., other than a sexual assault as described in subparagraph (II) of this paragraph (a), or is alleged to have committed sexual assault pursuant to section 18-3-402, C.R.S., sexual assault on a child pursuant to section 18-3-405, C.R.S., or sexual assault on a child by one in a position of trust pursuant to section 18-3-405.3, C.R. S.; and (B) Is found to have a prior adjudicated felony offense; or	**Colo. Rev. Stat. Ann. § 19-2-517** (1.5) If, after a preliminary hearing, the district court does not find probable cause for an offense that may be charged by direct filing, or if the direct file eligible offense is dismissed at a later date, the court shall remand the case to the juvenile court. *(language from statute)* (3)(a) After a juvenile case has been charged by direct filing of information or by an indictment in district court, the juvenile may file in district court a motion to transfer the case to juvenile court. The juvenile must file the motion no later than the time to request a preliminary hearing. Upon receipt of the motion, the court shall set the reverse-transfer hearing with the preliminary hearing. The court shall permit the district attorney to file a response to the juvenile's motion to transfer the case to juvenile court. The district attorney shall file the response no later than fourteen days before the reverse-transfer hearing. *(language from statute)* In determining whether the juvenile and the community would be better served by adjudicative proceedings in

	(IV) Has previously been subject to proceedings in district court as a result of a direct filing pursuant to this section or a transfer pursuant to section 19-2-518; except that: (A) If the juvenile is found not guilty in district court of the prior felony or any lesser included offense, the subsequent charge shall be remanded to the juvenile court; and (B) If the juvenile is convicted in district court in the prior case of a lesser included or nonenumerated offense for which criminal charges could not have been originally filed by information or indictment in the district court pursuant to this section, the subsequent charge may be remanded to the juvenile court. (1.5) If, after a preliminary hearing, the district court does not find probable cause for an offense that may be charged by direct filing, or if the direct file eligible offense is dismissed at a later date, the court shall remand the case to the juvenile court. (2) Notwithstanding the provisions of section 19-2-518, after filing charges in the juvenile court but before the juvenile court conducts a transfer hearing, the district attorney may file the same or different charges against the juvenile by direct filing of an information in the district court or by indictment pursuant to this section. Upon the filing or indictment in the district court, the juvenile court shall no longer have jurisdiction over proceedings concerning the charges. *(language from statute)*	the juvenile or district court, the court must consider a number of factors. (c) If the district court determines that the juvenile and the community would be better served by adjudicative proceedings in the juvenile court the court shall enter an order directing that the offenses against the juvenile be adjudicated in juvenile court.
DISTRICT OF COLUMBIA	**D.C. Code § 16-2301** The term "child" for purposes of family division jurisdiction does not include anyone at least 16 years	

	old who is charged by the U.S. Attorney with any of various listed offenses. *(language from JJGPS website)* • *Offense*: Murder *Minimum Ages*: 16 *Description*: Murder, assault with intent to murder, and any other offense properly joinable to either. • *Offense*: Person *Minimum Ages*: 16 *Description*: First degree sexual abuse, armed robbery, assault with intent to commit either offense, and any other offense properly joinable to the above. • *Offense*: Property *Minimum Ages*: 16 *Description*: First degree burglary or any other offense properly joinable to it.	
FLORIDA	**Fla. Stat. Ann. § 985.557** Charges may be filed directly in the circuit court's criminal division whenever, in the State's Attorney's "judgment and discretion," the public interest requires it. (Note—While the law gives the State's Attorney discretion here, one who declines the option may be formally obliged to move for a transfer in juvenile court, or at least to provide the court with written reasons for failing to do so; see Discretionary Waiver.) In addition, if a child is accused of a capital offense, the State's Attorney may present the case to a grand jury and seek an indictment. If the State's Attorney does not wish to seek an indictment, or if the grand jury does not return an indictment, the State's Attorney may inform the court in writing to that effect and the case	

	will proceed in juvenile court. If the State's Attorney gets an indictment, the child will be tried as an adult not only for the capital offense but also for any included offenses. *(language from JJGPS website)* • *Offense*: Any criminal offense *Minimum Ages*: 16 *Description*: Any misdemeanor committed by a juvenile with 2 prior adjudications, 1 for a felony • *Offense*: Certain felony offense *Minimum Ages*: 16 *Description*: Any felony • *Offense*: Capital offense *Minimum Ages*: No age specified *Description*: Any offense punishable by death or life imprisonment • *Offense*: Murder *Minimum Ages*: 14 *Description*: Murder, manslaughter, or the attempt or conspiracy to commit them • *Offense*: Person *Minimum Ages*: 14 *Description*: Sexual battery, robbery, kidnapping, aggravated child abuse, aggravated assault, aggravated stalking, aggravated battery, burglary with an assault or battery, lewd or lascivious assault or act committed on or in the presence of a child, or the attempt or conspiracy to commit any of these offenses • *Offense*: Property *Minimum Ages*: 14 *Description*: Arson, armed burglary, burglary involving damage to a dwelling or structure,	

	grand theft, grand theft auto by one with a previous grand theft auto adjudication, or the attempt or conspiracy to commit any of these offenses • *Offense*: Weapon *Minimum Ages*: 14 *Description*: Carrying, displaying, using, threatening, or attempting to use a weapon during the commission of a felony; unlawful throwing, placing, or discharging of a destructive device or bomb; or the attempt or conspiracy to commit any of these offenses	
GEORGIA	**GA ST § 15-11-560** The juvenile and superior courts have concurrent jurisdiction over cases involving juveniles of any age accused of crimes punishable by death or life imprisonment, except for certain designated crimes placed under the exclusive jurisdiction of the superior court. *(language from JJGPS website)* • *Offense*: Capital offense *Minimum Ages*: No age specified *Description*: Any crime punishable by death, life imprisonment without parole, or confinement for life in a penal institution, except those crimes over which the superior court has exclusive jurisdiction	**GA ST § 15-11-560** Before indictment, "after investigation and for cause," the district attorney may "decline prosecution in superior court" of a case over which the superior court has exclusive jurisdiction, withdraw it and cause a petition to be filed in the appropriate juvenile court instead. After indictment, "after investigation and for extraordinary cause," the superior court may transfer to juvenile court "any case involving a child 13 to 17 years of age alleged to have committed voluntary manslaughter, aggravated sodomy, aggravated child molestation, or aggravated sexual battery." The superior court may transfer any case involving a child 13 to 17 years of age alleged to have committed any offense enumerated in subsection (b) of this Code section and convicted of a lesser included offense not included in subsection (b) of this Code section to the juvenile court of the county of such child's residence for disposition. Upon such a transfer by the superior court,

		jurisdiction shall vest in the juvenile court and jurisdiction of the superior court shall terminate. *(language from statute)*
LOUISIANA	**La. Child. Code Ann. art. 305** If the case meets specified age/offense criteria, the district attorney may choose between (1) obtaining a grand jury indictment against the child, which bypasses the juvenile court altogether; (2) filing criminal charges without first securing a grand jury indictment, in which case the juvenile court's only involvement with the case will be to determine whether there is probable cause to believe that the child committed the offense; or (3) filing a delinquency petition, in which case jurisdiction remains in the juvenile court. *(language from JJGPS website)* • *Offense*: Murder *Minimum Ages*: 15 *Description*: Attempted first degree murder, attempted second degree murder, manslaughter • *Offense*: Person *Minimum Ages*: 15 *Description*: Armed robbery, simple or forcible rape, second degree kidnapping, aggravated oral sexual battery, aggravated battery committed with a firearm, a second or subsequent aggravated battery • *Offense*: Property *Minimum Ages*: 15 *Description*: Aggravated burglary, a second or subsequent burglary of an inhabited dwelling • *Offense*: Drug *Minimum Ages*: 15	

	Description: A second or subsequent felony-grade violation of listed statutes governing controlled dangerous substances	
MICHIGAN	**Mich. Comp. Laws Ann. § 712A.2** In the case of a child of at least 14 accused of a "specified juvenile violation," the juvenile court has jurisdiction only "if the prosecuting attorney files a petition in the court instead of authorizing a complaint and warrant." Otherwise, the circuit court has jurisdiction. Jurisdiction over a specified juvenile violation includes jurisdiction over any lesser included offense and over any other offense arising out of the same transaction. *(language from JJGPS website)* • *Offense*: Certain felony offense *Minimum Ages*: 14 *Description*: Escape or attempted escape from certain juvenile facilities; conspiracy or solicitation to escape • *Offense*: Murder *Minimum Ages*: 14 *Description*: First and second degree murder; attempted murder; conspiracy or solicitation to commit murder • *Offense*: Person *Minimum Ages*: 14 *Description*: Assault with intent to commit murder; assault with intent to maim; armed assault with intent to rob and steal; armed assault with intent to do great bodily harm; kidnapping; first degree criminal sexual conduct; armed robbery; carjacking; attempt, conspiracy, or solicitation to commit any of	

	these offenses • *Offense*: Property *Minimum Ages*: 14 *Description*: Arson of a dwelling; bank, safe, and vault robbery; first degree home invasion while armed; attempt, conspiracy, or solicitation to commit any of these offenses • *Offense*: Drug *Minimum Ages*: 14 *Description*: Unlawful manufacture, creation or delivery of a minimum quantity of certain designated controlled substances, or possession with intent to manufacture, create, or deliver the same; any attempt, conspiracy, or solicitation to commit any of these offenses	
MONTANA	**Mont. Code Ann. § 41-5-206** If a child otherwise meets specified age/offense criteria, but was under 17 at the time of the alleged offense, the county attorney has discretion to file either (1) a delinquency petition in youth court or (2) a motion in district court asking for leave to file there. (If the child was 17 at the time of the offense, the county attorney must ask leave to file in district court; see Statutory Exclusion.) The district court must grant the county attorney leave to file there if it finds that there is probable cause to believe the child committed the alleged offense. (However, the court must hold a reverse waiver hearing within 30 days thereafter, unless the child waives it; see Reverse Waiver.) A separate offense that "arises during the commission of" but is not one of the offenses qualifying for direct file treatment may either be tried in youth court or	**Mont. Code Ann. § 41-5-206** Within 30 days after granting leave to file an information against a minor in district court, the district court must conduct a hearing to determine whether to transfer the matter to youth court, unless the accused minor waives the hearing in writing or on the record. The district court may not transfer the case to youth court unless it finds, by a preponderance of the evidence, that a youth court proceeding and disposition "will serve the best interests of community protection," that "the nature of the offense does not warrant prosecution in district court," and that "it would be in the best interests of the youth if the matter was prosecuted in youth court." *(language from JJGPS website)*

	transferred to district court, upon the county attorney's motion and after a district court hearing. *(language from JJGPS website)* • *Offense*: Murder *Minimum Ages*: 12 *Description*: Deliberate homicide, mitigated deliberate homicide, the attempt to commit either, or accountability for the commission of either • *Offense*: Murder *Minimum Ages*: 16 *Description*: Negligent homicide, attempted negligent homicide, or accountability for negligent homicide • *Offense*: Person *Minimum Ages*: 12 *Description*: Sexual intercourse without consent, assault on a peace officer or judicial officer • *Offense*: Person *Minimum Ages*: 16 *Description*: Aggravated assault, sexual assault, assault with a weapon, robbery, aggravated kidnapping, use of threat or violence to coerce criminal street gang membership, escape, or attempting or being accountable for any of the above offenses • *Offense*: Property *Minimum Ages*: 16 *Description*: Arson, burglary or aggravated burglary; the attempt to commit any of these offenses or accountability for any of these offenses	

	• *Offense*: Drug *Minimum Ages*: 16 *Description*: Criminal distribution, production, manufacture, or possession of dangerous drugs; the attempt to commit any of these offenses, or accountability for any of these offenses • *Offense*: Weapon *Minimum Ages*: 16 *Description*: Possession, attempt to possess, or accountability for the possession of explosives	
NEBRASKA	**Neb. Rev. Stat. § 43-276** The juvenile court's jurisdiction is concurrent with those of the district/county courts in cases that meet age/offense criteria. Where the accused child is less than 16, however, the law specifies a number of factors (including, among many others, "the best interests of the juvenile and the security of the public") that must be considered by the county attorney in deciding how to file. *(language from JJGPS website)* • *Offense*: Any criminal offense *Minimum Ages*: 16 *Description*: Any non-traffic misdemeanor • *Offense*: Certain felony offense *Minimum Ages*: No age specified *Description*: Any felony	**Neb. Rev. Stat. § 29-1816** When a juvenile is charged in criminal court (see Direct File), the juvenile may move the court to waive jurisdiction to the juvenile court. After a hearing in which both sides present evidence bearing on the same considerations that the county attorney was required to take into account in making the original filing decision (see Direct File), the court must order transfer "unless a sound basis exists for retaining the case." The court must set forth findings for its decision, but the grant or denial of a transfer is not immediately appealable. *(language from JJGPS website)*
OKLAHOMA	**Okla. Stat. Ann. tit. 10A, § 2-5-206; Okla. Stat. Ann. tit. 10A, § 2-5-205** When a child meets statutory age/offense criteria for "youthful offender" status, the district attorney may file either a delinquency petition or criminal charges against the child. If the district attorney elects to file	**Okla. Stat. Ann. tit. 10A, § 2-5-205; Okla. Stat. Ann. tit. 10A, § 2-5-206** A child of 13 or 14 who is charged with first degree murder as an adult (see Statutory Exclusion) may file a motion for certification as a youthful offender or a juvenile before the start of the criminal preliminary

	criminal charges under the Youthful Offender Act, "[a]ll proceedings shall be as for a criminal action;" however, following a conviction, different sentencing provisions apply. The district attorney must use the youthful offender procedures if the child has previously been certified as a youthful offender (see Once an Adult/Always an Adult). After the district attorney has elected to file criminal charges, and before the preliminary hearing, the accused youthful offender may move the court to be "reverse certified" to the juvenile system (see Reverse Waiver). *(language from JJGPS website)* • *Offense*: Certain felony offense *Minimum Ages*: 16 *Description*: Any felony in which a firearm was used • *Offense*: Murder *Minimum Ages*: 15 *Description*: Second degree murder; first degree manslaughter • *Offense*: Person *Minimum Ages*: 15 *Description*: Kidnapping; armed robbery/attempted armed robbery; first degree rape/attempted first degree rape; rape by instrumentation/attempted rape by instrumentation; forcible sodomy; lewd molestation; assault and battery with a deadly weapon; shooting with intent to kill; use of a vehicle to facilitate drive-by shooting • *Offense*: Person *Minimum Ages*: 16 *Description*: Aggravated assault and battery of	hearing. Likewise, a child charged as a youthful offender (see Direct File) "may file a motion for certification to the juvenile system before the start of the criminal preliminary hearing." (In the latter case, where a child has been charged as a youthful offender, the court may also hold a "reverse certification" hearing on its own motion at the conclusion of the preliminary hearing.) In either instance, once a motion to certify has been filed, the child's whole juvenile record must be made available to both sides. At the conclusion of the State's case at the preliminary hearing, the child may offer evidence in support of reverse certification. The court must rule on the motion before binding the child over for trial, giving consideration to a list of "guidelines." [Note—The guidelines applicable to reverse certification of those charged as youthful offenders are almost but not quite identical to the guidelines applicable to the reverse certification of those charged as adults.] The court's certification decision need not address each of the guidelines individually, but must state that the court considered them in deliberating over its decision. An order granting or denying the motion for certification is immediately appealable. *(language from JJGPS website)*

	a police officer; battery or assault and battery on a state employee or contractor while in custody; witness intimidation; assault with a deadly weapon; maiming; second degree rape • *Offense*: Property *Minimum Ages*: 15 *Description*: First degree arson/attempted first degree arson • *Offense*: Property *Minimum Ages*: 16 *Description*: First degree burglary/attempted first degree burglary; second degree burglary after two or more delinquency adjudications for first degree burglary or residential second degree burglary • *Offense*: Drug *Minimum Ages*: 16 *Description*: Trafficking in or manufacturing illegal drugs • *Offense*: Weapon *Minimum Ages*: 15 *Description*: Discharging a firearm or other weapon from a vehicle	
VERMONT ***(NB: This was just reformed, but is still awaiting Governor's signature)***	**Vt. Stat. Ann. tit. 33, § 5203** As long as the offense is not one of those excluded by statute (see Statutory Exclusion) and the child was at least 16 at the time of commission, the State's attorney may file in juvenile court or criminal court. *(language from JJGPS website)* • *Offense*: Any criminal offense *Minimum Ages*: 16 *Description*: Any offense not subject to	**Vt. Stat. Ann. tit. 33, § 5203; Vt. Stat. Ann. tit. 33, § 5204; Vt. Stat. Ann. tit. 33, § 5281** If it appears to the state's attorney that the defendant was over the age of 16 and under the age of 18 at the time the offense charged was alleged to have been committed and the offense charged is not an offense specified in subsection 5204(a) of this title, the state's attorney may file charges in the Family or Criminal Division of the Superior Court. If charges in such a

	statutory exclusion (§5204(a))	matter are filed in the Criminal Division of the Superior Court, the Criminal Division of the Superior Court may forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the person shall thereupon be considered to be subject to this chapter as a child charged with a delinquent act. *(language from statute)* (The law does not state any grounds for such a transfer, standards to be observed, or factors to be considered.) **(Vt. Stat. Ann. tit. 33, § 5203)** In addition, if a child tried as an adult was less than 16 at the time of the alleged offense and is convicted only of a lesser included offense (i.e., one that would not by itself have justified treatment as an adult), the conviction is treated as a delinquency adjudication and the juvenile court acquires jurisdiction for purposes of disposition. **(Vt. Stat. Ann. tit. 33, § 5204)** Finally, any juvenile who enters a plea of guilty or nolo contendere to criminal charges may move to be transferred to juvenile court for disposition as a Youthful Offender. **(Vt. Stat. Ann. tit. 33, § 5281)** *(language from JJGPS website)*
VIRGINIA	**Va. Code Ann. § 16.1-269.1** When a child of at least 14 is charged with various listed violent felonies, the juvenile court must hold a preliminary hearing to determine probable cause if the attorney for the Commonwealth gives notice of intent to elect this procedure. Following a finding of probable cause to believe the child was of the proper age and committed the offense alleged, the juvenile court must certify the charge, together with any ancillary charges,	**Va. Code Ann. § 16.1-269.6** Following an appeal from a discretionary transfer decision, the circuit court must determine whether the juvenile court substantially complied with the requirements for discretionary transfers (but without revisiting the probable cause determination); if not, it may remand the case to the juvenile court. *(language from JJGPS website)*

	to the grand jury, after which its jurisdiction is terminated. (But note—If the juvenile court does not find probable cause, the attorney for the Commonwealth may then seek a direct indictment in circuit court.) On the other hand, in such a case the Commonwealth attorney may also elect not to give notice, and either seek a discretionary waiver or proceed with the case in juvenile court. *(language from JJGPS website)* • *Offense*: Murder *Minimum Ages*: 14 *Description*: Accidental homicide committed in the course of a felony • *Offense*: Person *Minimum Ages*: 14 *Description*: Felonious injury by mob, abduction, malicious wounding, malicious wounding of a police officer, felonious poisoning, adulteration of products, robbery, carjacking, rape, forcible sodomy, or sexual penetration with an object • *Offense*: Drug *Minimum Ages*: 14 *Description*: Manufacture, sale, giving, distribution or possessing with intent to manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance if the juvenile had been previously adjudicated delinquent two or more occasions of the same felony after the juvenile turned 14; Manufacture, sale, giving, distribution or possessing with intent to manufacture, sell, give, or distribute methamphetamine if the	

	juvenile had been previously adjudicated delinquent two or more occasions of the same felony after the juvenile turned 14; Manufacture, sale, giving, distribution or possessing with intent to manufacture, sell, give, or distribute anabolic steroids if the juvenile had been previously adjudicated delinquent two or more occasions of the same felony after the juvenile turned 14	
WYOMING	**Wyo. Stat. Ann. § 14-6-203** Cases that meet statutory age/offense criteria may be filed either in juvenile court or in district court (or other inferior court having jurisdiction). However, the district attorney is required to establish "objective criteria, screening and assessment procedures" for choosing the appropriate court in concurrent jurisdiction cases. In choosing the appropriate forum for a case involving a child of at least 17 who is accused of any felony, the district attorney must give consideration to the same "determinative factors" that a court would weigh in ruling on a transfer request. *(language from JJGPS website)* • *Offense*: Any criminal offense *Minimum Ages*: 13 *Description*: All misdemeanors except those within the exclusive jurisdiction of the juvenile court • *Offense*: Certain felony offense *Minimum Ages*: 14 *Description*: Felony committed by a child with at least two previous felony adjudications • *Offense*: Certain felony offense	**Wyo. Stat. Ann. § 14-6-237** When a case within the concurrent jurisdiction of the juvenile court is filed in district court (see Direct File), the district court may, after a hearing held on its own motion or that of any party, order the case transferred to juvenile court if it finds that the case is "more properly suited to disposition" there. *(language from JJGPS website)*

	Minimum Ages: 17 *Description*: Any felony • *Offense*: Murder *Minimum Ages*: 14 *Description*: Murder, manslaughter • *Offense*: Person *Minimum Ages*: 14 *Description*: Kidnapping, first- or second-degree sexual assault, robbery, aggravated assault, aircraft highjacking • *Offense*: Property *Minimum Ages*: 14 *Description*: First- or second-degree arson, aggravated burglary	

Charlie Curtis
Testimony to the District of Columbia Council
June 2nd, 2016

Good morning Chairman McDuffie and members of the Council. Thank you for allowing me to share my experiences with you. My name is Charlie Curtis. I am 25 years old, and I grew up in Southeast DC, where I was exposed to a lot of drug dealing, poverty, and violence in my neighborhood as a kid. I always looked up to my older brother Thomas. When I was 12, my brother got locked up in Maryland and he was charged as an adult even though he was only 16. I was devastated. It was like I lost my best friend. When a person is sent to prison, it affects their whole family. It wasn't too long until I started getting in trouble myself. When I was 16, I made a stupid mistake by committing a robbery that landed me at the DC Jail, charged as an adult.

I'm not here to make excuses for my behavior back then. What I did was wrong. I served 5 years in adult jails and prisons, and I spent a lot of time thinking about why I made the mistakes I made and how I can prevent other young people from making those same mistakes. I have realized that kids have a much harder time resisting peer pressure, asking for help, and understanding the consequences of their actions than adults do. No harsher penalties for crimes would have stopped me from doing what I did, but programs like Free Minds helped me to learn from my mistakes so I could come home and give back to my community as a productive member of society. I am 25 now, and I can say I am a very different person from the kid I was at age 16. I am a father of two beautiful children. In 2015, alongside Councilmember McDuffie, I was awarded Father of the Year by the DC Fatherhood Coalition. I work full time, and when I'm not at work, I travel the city with Free Minds, speaking to groups at local schools and at New Beginnings, trying to prevent the young people there from going down the same path I went down.

When I was incarcerated at the DC Jail, there was no school, and there were barely any programs. People stole your shoes and your food and there were violent fights pretty much every day. As a teenager at the adult jail, I always had to prove myself and act hard. I spent most of my time making sure that nobody thought I was scared. It wasn't even a choice, it was a matter of survival. I was sent to solitary confinement for what seemed like such small things. It was clear that the adult jail was meant to punish me, not to rehabilitate me. At New Beginnings I see hope for youths. They have one-on one mentoring and programs that allow kids to learn trades like HVAC, Carpentry, Barbering and Culinary. These kids are getting hands on training that prepares them for returning to the community to find jobs so that they don't have to go back to the streets.

These kids need mentoring and programs appropriate for their age, the type of programs that they cannot get at the adult jail. I know, because I was once one of them. At 25, I am not the same kid I was when I was 16. No 16-year-old should have to pay for a stupid mistake from their youth for the rest of their lives. No matter what laws are passed or not passed, these kids will come home eventually. Rehabilitation is in everyone's interest. I believe that this bill is a step in the right direction to help make our communities safer by helping kids overcome the mistakes they have made. By sending them to juvenile facilities that give them the tools they need to be successful when they come home, everyone is better off. Thank you.

WRITTEN TESTIMONY STATEMENT

OF

ARTHUR L. BURNETT, SR.

RETIRED JUDGE, SUPERIOR COURT OF THE

DISTRICT OF COLUMBIA

VICE PRESIDENT OF ADMINISTRATION

AND

NATIONAL EXECUTIVE DIRECTOR

NATIONAL AFRICAN AMERICAN DRUG POLICY COALITION, INC.

AND

PRESIDENT AND CHAIRMAN OF THE BOARD OF DIRECTORS

YOUTH COURT OF THE DISTRICT OF COLUMBIA, INC.

BEFORE

THE COMMITTEE ON THE JUDICIARY

THE COUNCIL OF THE DISTRICT OF COLUMBIA

ON

BILL NO. 21-683

PROPOSED COMPREHENSIVE YOUTH JUSTICE AMENDMENT ACT OF 2016

June 2, 2016

Second only to my interest in CIVIL RIGHTS has been my interest in improving and enhancing the juvenile justice system in America since the time I took a Juvenile Justice course as a college sophomore at Howard University in the Masters of Social Work Program in 1953-1954 from the noted Sociologist E. Franklin Frazier. When I joined the American Bar Association in 1962 the very first committee I signed up for and began serving on was the Juvenile Justice Committee dealing with Juvenile Justice Standards and recommended improvements in the Juvenile Justice system. I have served on that Committee now for almost 54 years. Finally, I have served as an attorney for the U.S. Department of Justice, an Assistant United States Attorney, and as a judge sitting on the Bench hearing cases of all types but with a heavy emphasis on criminal and juvenile delinquency cases and neglect and abuse cases for almost 31 years.

This is the background I bring as to insights and perspectives as to what a model juvenile justice system in America ought to be. We now have the opportunity with Bill 21-683, to be cited as the "Comprehensive Youth Justice Amendment Act of 2016" to establish a "Model Act" which could be an example of progressive and humane legislation in the best interest of the youth of this Nation with the needed factual basis for its application to individual youth when absolutely needed, and for establishing a juvenile delinquency diversion program which would be comprehensive in scope to influence the first-time offender not to offend again and proceed further down the path or what some call the "pipeline" of repetitive juvenile offender conduct and behavior and into adult crime adding to the extensive crime and violence problems we have in this Nation and MASS INCARCERATION.

Further, we must be cognizant that the juvenile justice system does not operate in a vacuum. Its operations must be coordinated and integrated with other entities and agencies of government, the education system – public, charter and private schools, the social service agencies rendering services to members of a dysfunctional family of the youth involved, agencies meeting the child's physical, emotional and mental health needs, and indeed even recreational needs for the child in the community all of which impact the molding of the value system of that child who may become involved in the juvenile justice system. When we view the child, we must look at the holistic system of services a child may need to be all that child can become in life with a positive vision of achievements contributing to the welfare of himself or herself, his or her family, and overall welfare of all residents in the community. A child must grow up with a positive moral compass of values and aspirations which instills in that child that everyone else's life is as valuable as his own. Respect for human life, for success and achievement must be instilled, starting by reading to the child in a loving and caring manner from 0 to 3 years of age that which fosters those values we all want to be set in a human being.

A child from birth does not grow up in a vacuum, but rather from birth is influenced in development as to how he or she relates to others and views self, respect for life, bodily integrity, manner of expression and talk, and what is "good" and what is "bad" conduct and behavior. A child will do what the child sees others do and say what he or she hears others say. Indeed ages 0-3 set the foundation. What type of child do we produce even if the child does well in school, but goes home where there is constant vulgar and profane language, domestic violence between the adult caretakers of the child, prostitution or narcotics usage going on in the child's presence, and no homework from school being done or even encouragement to prepare for school the next day, or indeed when the parent ridicules the child for being a good student telling her you are not going to be anything but a "whore" and a "bitch" anyway or a young boy excellent in math is told he could be a "gang" leader or a drug lieutenant and make a lot of money as long as he does not get caught by the police and besides there are no jobs for you in which you can make any real money. While a child may spend 6-8 hours a day in school, the remainder of the day that child is in the dysfunctional home or "hanging" on the street with his "boys" or with her "girls" frequently getting in trouble resulting in a juvenile arrest and the downhill spiral of repeated juvenile offenses and upon turning 18 years of age and thereafter becoming an adult criminal offender.

Turning to the particulars of this Bill we strongly support the provision to ban the pre-disposition detention of status offenders. However, I wish to raise the question what should be done for a 16 or 17 year old who tells the judge regarding a status order, go to "Hell" I am not going to do what you tell me to do, "f--- you.". Can the judge then find the youth in contempt of Court and commit the child to pre-detention pending a further hearing or actually adjudicate the child as being in actual "contempt"? However, where the child is compliant, placement in a group home or temporary safe quarters must be the option until there is a location of the parent or caretaker and a determination as to whether the child can be safely returned to that parent or caretaker. If the parent or caretaker is or has been abusing the child, then the matter should be brought to the attention of the District of Columbia Attorney General for initiation of neglect and abuse proceedings and the child placed in a safe foster home.

We strongly endorse the provision to allow the sharing of juvenile information for the purpose of evaluating the efficacy of diversion programs, and suggest that Memoranda of Understanding between D.C. government agencies and non-profit community juvenile diversion programs be explicitly authorized by this legislation to allow non-profits to obtain information from D.C. government agencies including information on youth going through their programs as to recidivism for up to five-year period following participation in the diversion programs in their data collection to show the effectiveness of the diversion program and that it is in fact evidence-based in results achieved as to absence of recidivism and positive accomplishments. Further, with reference to such an arrangement the MOU by a non-profit diversion program with the Office of the Attorney General could require data collection to include the consent of the youth to maintain contact with the diversion program for a period of five (5) years as to progress in achievement but also as to any re-arrests and adjudications for criminal offenses in suburban Maryland, Virginia or anywhere else in the United States. We realize that this would depend on the candor of the individual and whether the individual may have used a different name in another jurisdiction.

Such information as to such individuals five years after going through a diversion program to show its efficacy and the reliability would be most desirable.

We take special note of the amendment to Subsection ©(2) of Section 16-2320 providing "Transfer of legal custody to a public agency for the care of delinquent children, except that legal custody shall not be transferred to a public agency for the care of delinquent children when the child in question is less than ten years of age." We interpret this to mean that a child under 10 may still be determined to be delinquent, but placement cannot be in a detention facility, but in a neglect and abuse context applicable to the caretaker of that child, the child can be placed in foster care, or perhaps temporary care or guardianship of a relative with the capacity to supervise and correct that child as to future behavior.

We note that this approach may be specifically applicable where the youth under 10 years of age is charged on a legal theory of aider and abettor in joy riding in a stolen car, or in a shoplifting incident with running with the older youth who took an item in a store or other place of business, and there is a close question as to whether the kid younger than 10 ran because he was simply scared and frightened or he was cooperating with the main grabber of the merchandise before it was snatched and the running occurred. A situation may exist where an 8 or 9 year old is given an item to take across the street to give to an individual waiting pointed out by the giver of the item, and is given $20 bill to do so, not knowing what is in the package, i.e. cocaine – but maybe simply thinking it is stolen goods. Or the conduct may involve unlawful entry into a boarded up warehouse or business establishment with a group of older boys who proceed to take brass pipes or other items to sell to get money and he or she is with the crowd. The young 8 or 9 year old may simply have thought this was a frolic or a way of having a good time and not realize that it was wrong, but yet as an aider and abettor is swept up in the event with the older boys.

We also take note of the provisions dealing with "Incarceration Reduction" and specifically amending the Attorney General for the District of Columbia functions to develop a program to provide victim-offender mediation. We support such a program where restorative justice or restitution may be a positive solution, such as paying for medical expenses of a victim in a fist fight, or a torn blouse in a fight between two (2) girls over a boyfriend, or washing graffiti off a wall of a building, or cleaning up toilet paper strewn across another's yard as a prank, or washing a car which was muddy because of throwing of mud balls. This could be a useful approach where mediation could result in some type of service beneficial to the victim or repayment in money value for the harm or damage done.

We recommend a new provision here also to give the Attorney General the authority to authorize law enforcement officers to give CITATIONS to a youth and parent or caretaker for appearance at a juvenile diversion program, in lieu of being formally arrested and handcuffed where the juvenile conduct and behavior is sufficiently minor for a diversion program, thus avoiding for the officer the time and paperwork involved in a formal arrest process, but more importantly avoiding the emotional trauma on

the offending youth and the stigma of an arrest record for a juvenile offense which could adversely affect that child's future educational or employment prospects and would be far more detrimental than a simple Citation like a Traffic Ticket, expressly referring the youth and parent/caretaker to the juvenile diversion program on a given date at a specific time, and threatening that if they fail to comply, than an arrest warrant could be issued to take the child into custody and the case could be referred formally for official court proceedings. Such an approach could be very useful in school discipline cases involving destruction of property, assaults in fighting, bullying involving threats to do bodily harm, alleged petty theft, and perhaps even small amounts of marijuana, or inadvertently bringing a prohibited item into the school which could be deemed a weapon. This process could also be implemented in petty theft shoplifting cases or minor cases of defacing another's property in the community at large. Alternatively, the D.C. City Council could directly authorize the Chief of Police to give discretion to individual officers when to arrest or in lieu of formal arrest, to issue a Citation requiring attendance at a future date before a particular juvenile diversion program at a particular time.

With respect to solitary confinement, in view of the several recent studies indicating that such an approach causes and increases mental illness and is counterproductive to rehabilitation, and if anything increases the individual's proclivity to be dangerous and harmful upon release and more likely to engage in repetitive criminal conduct, we strongly support such provisions in this Bill restricting such confinement and prohibiting the use of room confinement for the purposes of punishment, disciplinary sanction, administrative convenience or staff shortages, and limiting it to short periods of time requiring a licensed mental health provider to perform a mental health assessment within 1 hour of placement, and then upon a determination in a specific written finding that there are no other reasonable means to eliminate the condition and that room confinement is used only to the extent necessary to eliminate the condition identified. Such room confinement must take place under the least restrictive conditions practicable and consistent with the individualized rationale for the placement. Room confinement shall be used for the briefest period of time possible not to exceed six hours. If at the end of six hours, the juvenile has not regained control over himself or herself, then the youth shall be transferred either to a mental health facility or the medical unit of the facility.

We have also specifically noted the proposed amendment which includes a child in need of supervision, Section 16-2310(b) which would read: "A child shall not be placed in shelter care prior to a factfinding hearing or a dispositional hearing unless the child is alleged to be delinquent or in need of supervision and unless it appears from available information that shelter care is required - (1) to protect the person of the child or (2) because the child has no parent, guardian, custodian, or other person or agency able to provide supervision and care for him and the child appears unable to care for himself and that (3) no alternative resources or arrangements are available to the family that would adequately safeguard the child without requiring removal." We suggest that an alternative resource or arrangement could be a referral of the matter to a juvenile diversion program with a counselor-mentor component to work with both the child and the parent or caretaker. For example, Youth Court of the District of Columbia has developed an Implementation Plan where a youth is a first time offender of a minor offense or

infraction, and his/her home life is deficient because of dysfunctional parenting, that the youth could be required to participate in the diversion program aspects and the parent or caretaker could be required to participate in a Family Mentoring Program with the counselor-mentor working both with the child and with the parent to overcome the deficiencies and to enable the parent to meet the standards of adequate parental supervision. Such an arrangement of course would also require the consent of the prosecuting attorney as to the juvenile offense involved. Such an approach could also be utilized in cases involving chronic truancy from school because of lack of parental supervision, or even affirmative conduct of the parent requiring the child to stay home and miss school which causes the chronic truancy problem, and for example, led to the shoplifting charge against the youth involved or the breaking of a storefront window on a dare from another wayward youngster just as a prank.

We wish to emphasize that in relying on community-organization juvenile diversion programs, they are not under government control. Further, we recognize that their funding may be problematic from time to time, and that in competing for grants and/or contracts with District of Columbia departments and agencies, such funding must be competitive and transparent on the merits and quality of the programs and how effective they can be. But they also involve the potential of getting the entire community involved and to incorporate the concept "it takes a village to raise a child" and all adults and elders must become aware of the obligation for molding the character of the generation which will follow us into the future. Our community leaders, our concerned citizens, our church leaders who believe that their religious teachings and concepts guide their actions, must come forward and be more than just "talkers" and "protestors" and "demonstrators." They must put their ACTIONS and their MONEY where their mouths and marching have been in the past. ACTIONS SPEAK FAR LOUDER THAN MERE WORDS .

I have appeared here as one of the three (3) principal founders of the National African American Drug Policy Coalition, Inc. initially established April 1, 2004 and incorporated as a National Organization on January 12, 2006. One of its five (5) principal objectives was to bring together all the African American organizations dealing with disparities and unlawful discrimination in healthcare, in our criminal justice and its underlying juvenile justice system, and the laws and policies in these two areas as to how they impacted education, access to affordable housing, access to employment and opportunities in the workforce, entitlement to government benefits - in essence the remaining vestiges of unlawful discrimination that still permeates the fabric of life in America in all the public sectors. One of its principal objectives was to develop a program for our youth which not only influenced them not to engage in illegal drug usage and trafficking, in juvenile delinquent behavior and conduct, and criminal type activities, but instead to take pride within themselves to engage in self determination to develop a strong work ethic, to seek to achieve educational excellence to the same extent many aspire to excel in sports and in the entertainment field and to prove that each person shall be judged and valued as an individual as to what he or she can accomplish in life through the maximum use of his/her intellect, the talent and abilities bestowed upon him/her at birth, and with the proper instilling in the child from birth to value human life, a thirst for knowledge and achievement, the development of character and personality which makes a long life worth living for each and every one of us.

I appear here also as the President and Chairman of the Board of Directors of Youth Court of the District of Columbia, Inc. and as the leader of team of experts to reactivate Youth Court as a juvenile justice diversion program with an expanded scope for counselor-mentors to become involved to work with the youth, and where necessary with the entire family, to make it a functional and law abiding unit in our community. From my early days with the U.S. Department of Justice and as a prosecutor, I have felt that we needed to devote more resources – both financial and human – on the front end of our juvenile and criminal justice systems compared to the amount of money we spend on law enforcement, police, court proceedings, and incarceration. I have noted that we have previously created in the Office of the Mayor an Office of Returning Citizens to assist those returning to the community from imprisonment, and have suggested that we ought to have an equivalent Office on the front end, suggesting that it be called the Office of Youth Affairs or Office of Youth Achievement to address more proactively the needs of our youth in dysfunctional homes where they just grow up to become adults without the molding and shaping of value systems we need in our society in the 21st Century.

While improving our educational system is most desirable, it can not solve the problem of crime and violence in America unless we come up with positive solutions to the high volume of dysfunctional homes we have now without fathers in the home because of the high unemployment rate in legitimate work and fathers to establish standards for their sons and daughters which are positive and respectful of the rights of other individuals equally and mothers on welfare with depression and a sense of just drifting through life getting by the best way they can with alcohol, drugs and prostitution controlling their lives. Dealing with dysfunctional homes in our areas of poverty and creating legitimate employment opportunities is our biggest problem to solving what has contributed to MASS INCARCERATION in this Nation. Restoring stability in the homes, whether the cohabitating adults are married or not, but raising the children with the proper values and sense of identity and what they can become with educational achievement, vision and dreams, and using their maximum abilities must become the Number 1 goal in this Nation. We must find solutions to 20% of our population living below the poverty line, and a substantial number above the line living one pay check to check, and where unemployment will push them below the poverty line. Instead of becoming the GREAT SOCIETY envisioned by President Lyndon B. Johnson in the 1960s we are becoming the DETERIORATING SOCIETY of crime, violence and the death of many innocent victims who had great promise before them based on the quality of their lives before they met an untimely death and increasing drug usage and mental health issues because we do not meet the needs of an increasing number of our citizenry amounting to almost a quarter of our National population.

Racial Justice Initiative
of TimeBanks USA

Testimony of Dr. Edgar Cahn
Co-Founder, Co-Leader, Racial Justice Initiative of TimeBanks USA
Founder, TimeBank Youth Court (now Youth Court of the District of Columbia)
Distinguished Professor of Law,
University of the District of Columbia David A. Clarke School of Law

My involvement with juvenile justice actually dates back over fifty years, to 1962 when I was assigned as staff to the President's Committee on Juvenile Delinquency established by Attorney General Robert Kennedy. (That was the year after the movie West Side Story and the song Gee, Officer Krupke made delinquency and gangs a hot topic nationally.) [1]

My knowledge about Youth Courts dates back to 1966 when I urged replication of a the youth court in Tomkins Count which could impose up to fifty hours of constructive work - manual or academic for cases involving shop lifting, malicious mischief, drunkenness, driving without a license.

It took me thirty years to persuade the DC Superior Court to establish the Youth Court of the District of Columbia in 1996 -- after a report had come out that 54% of all African-American males between the ages of 18-35 were either in prison, parole, probation or a warrant was out for their arrest. I congratulated the Chief Judge for running a juvenile justice system that functioned as one of the nation's most efficient pipelines into the adult prison system. When he asked how I would change the system, I shared my breakthrough discovery: "Kids don't listen to adults. Kids listen to kids. Why not enlist them in a peer-to-peer effort?" Out of that came the agreement authorizing the Time Dollar Institute to establish the Time Dollar Youth Court as an official diversion program of the D.C. Superior Court. (Exhibit A) We subsequently spun it off to be an independent 501(c)3 chaired by Judge Burnett. I serve on that Board

I speak today about youth courts from three perspectives

1. **Youth Courts Work.** I believe in our young people. I know Youth Courts work from founding and running the Youth Court in Washington DC, and from watching what Youth Courts have done nationally. For me, that means that right here in Washington DC, young people have the proven capacity to transform schools and neighborhoods, make equal opportunity a reality and make juvenile justice really mean justice for juveniles It creates a peer culture that enlists youth as supporters of the rule of law. Frankly, the so-called "bad kids" sitting on juries and talking to their peers are doing more for the rule of law than anything else I or my law students can do.

2. **Lawyers as Social Architects.** Charles Houston (who mapped the path to Brown v Board of Education) said lawyers are either social parasites or social engineers. I try to get my law students to understand what it means to be a social architect. And I assign first year law students who have a 40 hour community service requirement to help staff the youth court. They serve as Youth Advocate Judges presiding over the hearings and it is a transformative experience. The law school your help fund has helped and would help to staff the Youth Court.

3. **Youth Courts can contribute to dismantling the Structural Racism that permeates juvenile justice and public education** The Supreme Court has ruled in *Washington v. Davis*, 426 U.S. 229 (1976) that adverse racial disparities produced by a system will ***not*** generate judicial relief ***unless*** one can prove that the disparity is intentional. To address that requirement, the Kellogg Foundation and Atlantic Philanthropies funded the Racial Justice Initiative of TimeBanks USA. That initiative undertakes to meet that requirement by giving officials a choice between present practice and alternatives that are cheaper, that reduce racial disparity and that are demonstrably effective. Once given formal notice of cheaper, validated alternatives, the intent requirement has been met if the system goes back

to prior practice and refuses to incorporate alternatives that work and are less expensive on a systemwide basis. *City of Canton v. Harris.* 489 U.S. 378 (1989)

The Youth Court is one such alternative. It enlists youth and peer pressure to alter conduct, improve learning, generate civic engagement and reduce delinquency and truancy. Youth Courts provide an evidence-based, more effective and far less costly vehicle to reduce delinquency and school suspensions, and promote youth development.

I urge the refunding of a Youth Court or a network of Youth Courts. Here is why. Prior to instituting the Youth Court as a diversion program in Washington DC, 40 percent of the cases referred to prosecutors in the District were "no papered." The cases were considered too trivial for overburdened prosecutors or police had failed to do all the paper work and secure the witnesses needed to proceed. So the word on the street was: "You get three freebies before they take anything you do seriously." And everyone knows that doesn't mean three illegal acts. It means three times getting caught. By the third arrest, a formal juvenile proceeding functions more as a rite of passage. for male teenagers, it is almost a macho ritual, a test of manhood, not a chance to choose a different path. Without meaning to, the juvenile justice system has been helping to teach young kids how they can beat the system.

The Youth Court of DC started as a small pilot program, then spread throughout Washington DC where hearings were held in public housing complexes, recreation centers, youth centers. Subsequently the Youth Court was convened Saturday mornings at least twice a month at 500 Indiana Ave. NW, the courthouse of the Superior Court itself. I have seen that Youth Court grow from where it handled ten or twelve cases a month to where it handled roughly sixty five percent of non-violent first offenses by teenagers in the District.

Offenders are subject to numerous sentences: restitution, an apology (oral or written), writing an essay, community service, a Life Skills course, a boys' or girls' special program, a substance abuse program -- and perhaps, most frequently, seven weeks of jury duty. As a result, this is not good kids judging bad kids; it is former offenders dealing with young people who did what they did a few months ago. [2]

Kids talking to kids works.

Prior to the Youth Court, recidivism for first time offenders ranged from 30-34%. With the Youth Court, recidivism has stayed below ten percent. That has been the case with other Youth Courts - but not all. A Study by the Urban Institute in 2002 found:

> "In Alaska, six percent of the teen court youth were referred again to the Alaska Division of Juvenile Justice, compared with 23 percent of the non-teen court youth. In Missouri, 9percent of the youth from the Independence Youth Court re-offended within six months, compared with 28 percent of similar youth handled by the Jackson County Family Court. In Arizona, the difference in recidivism between teen court youth and youth handled by the regular juvenile justice process also favored the teen court programs, but the size of the difference failed to reach statistical significance. Youth were re-referred to juvenile court in 9 percent of cases from the Tempe and Chandler teen courts, compared with 15 percent of the comparison groups cases handled by the juvenile court. "

The latest research on Youth Court states that there are currently more than 1,200 youth courts located in 49 states and formerly, in the District of Columbia. The national data finds that youth courts are serving approximately 110-125,000 youth offenders each year. Equally important, those youth courts provide hands-on leadership and citizenship training

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[2] On a prior Saturday before the Youth Court closed, I watched youth jurors hearing a wide range of offenses:

- possession of marijuana
- assault where a young man had hit back after being subjected to months of bullying for being gay and the school doing nothing
- taking a bag of potato from a younger child
- assault where a girl had struck her mother in an argument about use of a cell phone
- uttering threatening words at a bus stop in front of a police officer when the bus driver had slammed the door in the students face and driven off leaving him to wait for the next bus

· for more than 100,000 youth. In Washington DC and elsewhere, the youth court becomes an incubator for a new generation of youth spokespersons and leaders. They can speak with credibility and direct knowledge of the problems their peers face and the issues they confront trying to do the right thing. A goodly number have gone on to college and when they return to visit the DC Youth Court, they talk to groups of jurors about how youth court made a difference and what they are doing now.

Various designs are emerging - and Youth Courts can be fashioned so they "fit" local needs and enlist local allies. My students at the UDC School of Law have a community service requirement which many fulfill by serving at the Youth Court as Advocate Judges and Intake staff. In the State of Washington, I have just learned of an innovative Youth Traffic Court run by students at the University of Washington Law School to deal with driving without a license and driving by young people that results in an accident.

One grant to the Youth Court in Washington DC made possible one of the more exciting applications: youth who had some kind of problem at school (truancy, or suspension) were sentenced to tutor first and second graders in reading and math. It took nearly two years to get an elementary school to permit us to "bring in the hoods" as tutors -- but the parents of those elementary students raved about the program saying that the homework hour was the worst hour of the day for the -and that they could not keep their kids from going to school because they would be seeing their older buddy after school for tutoring. The teens who were sentenced to tutor changed when they became "educators" and the teachers at their high school stopped regarding them as trouble makers and suspensions-waiting-to-happen.

The cost varies greatly with staffing and design but there is no doubt that they cost substantially less than sending them through the official juvenile justice system. In 2006, the highly respected Washington State Institute for Public Policy undertook an extensive cost-benefit analysis of Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates. Their analysis found that every youth diverted to Youth Court rather than going through the traditional system would save the taxpayer $9,206 when costs were subtracted from predicable benefits to crime victims and to the taxpayer resulting from reductions in crime.

I certainly don't want to assert that Youth Courts are the only way to lower recidivism rates. But if you mandate the re-establishment of the Youth Court, you will reduce racial disparity and advance community values to a new level. Youth Courts add two elements to the array of innovations you already have. They add peer pressure to the adults charged with dealing with delinquency. And they develop citizenship and critical socialization skills.

Jurors are engaged in listening, problem solving and analysis and they do so in a role that confers real power and earns status. It enlists youth as the creators of a better, fairer justice system that teaches and incorporates the principles of restorative justice. The youth become change agents, community builders and justice activists. That's the kind of self-image we want our youth to have.

Statements by jurors have summed up some of the other effects of youth court. One respondent after being sentenced to jury duty told me: "I've been learning all the things I have to avoid that could have gotten me into trouble." I had not thought of Youth Court as providing that kind of case-by-case instruction in what not to do.

A few weeks ago, one former youth stopped me in a metro station to tell me he would be going to the University of Massachusetts at Amherst Then he added:"I owe that to Youth Court, both what I learned and how it kept my record clean. Without youth court, they never would have let me in, let alone given me the financial aid I got."

But perhaps the most powerful statement came when the Juvenile Justice Advisory Group to which I had been appointed asked a juror from the Youth Court what she had learned. She replied: "I learned my acts have consequences." I found myself wishing that some of our so-called leaders had learned that.

Superior Court
of the
District Of Columbia

AGREEMENT BETWEEN
THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
AND
THE TIME DOLLAR INSTITUTE FOR THE ESTABLISHMENT OF A
YOUTH COURT DIVERSION PROGRAM

AGREEMENT BETWEEN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA AND THE TIME DOLLAR INSTITUTE FOR THE ESTABLISHMENT OF A YOUTH COURT DIVERSION PROGRAM

This Agreement is entered into between the Superior Court of the District of Columbia and the Time Dollar Institute in partnership for the purpose of jointly developing a diversion program which provides a meaningful alternative to the traditional adjudicatory format in juvenile cases.

The National Institute of Justice awarded a grant to the Time Dollar Institute to undertake the planning and conduct of a Time Dollar Youth Court.

The Time Dollar Institute having received this grant has agreed to assume full responsibility for the daily operations and management of the Youth Court program. The Time Dollar Institute has further committed its own resources to the success of the program.

In preparation for full implementation of the Youth Court, agreements have been reached between the Time Dollar Institute and community groups and organizations to provide community service sites for youths participating in the Youth Court. The Time Dollar Institute has further conducted juror and buddy training with students from D.C. Public High Schools throughout the City who will serve as jurors and buddies for youths participating in the Teen Court program. Students from the District of Columbia School of Law have also agreed to serve as mentors to assist in monitoring compliance by youth participants with the conditions which may be imposed by the Youth Court, such as restitution, community service, jury service, counseling and other needed services and tasks.

The Youth Court shall be conducted at the District of Columbia School of Law and shall serve as a unique pre-petition diversion program for nonviolent first-time offenders. The Program will foster accountability, mobilize peer pressure to reduce delinquency and recidivism, promote responsibility to the community and victims of delinquent acts, and assist in the development of self-esteem and respect for the rule of law in the District of Columbia. These are the objectives of the Youth Court, and it is with the attainment of these goals as our mutual mission that the Superior Court of the District of Columbia and the Time Dollar Institute enter into this Agreement to implement the Youth Court Diversion Program.

The Time Dollar Institute shall submit, within two weeks from the signing of this Agreement, a comprehensive plan regarding the implementation of the Youth Court Program. The Plan shall include a Project Description, a Description of the Goals and Objectives of the Program, the Protocol for preserving the Confidentiality of Program participants, and an Operations Manual.

Honorable Eugene Hamilton
Chief Judge
Superior Court of the
District of Columbia

Edgar S. Cahn
President
Time Dollar Institute

Ulysses B. Hammond, Esq.
Executive Officer
District of Columbia Courts

Date: April 23, 1996

the CAMPAIGN for the FAIR SENTENCING of YOUTH

BILL: B21-0683
TITLE: Comprehensive Youth Justice Amendment Act of 2016
DATE: Thursday, June 2, 2016
POSITION: **SUPPORT**
COMMITTEE: Committee on the Judiciary
CONTACT: Nikola Nable-Juris (nnablejuris@fairsentencingofyouth.org)

Chair McDuffie and members of the Committee on the Judiciary:

The Campaign for the Fair Sentencing of Youth respectfully submits this testimony for the official record to express our **SUPPORT** for the **Comprehensive Youth Justice Amendment Act of 2016** (B21-0683). We are grateful to Councilmember McDuffie for his leadership in introducing this bill and the co-introducers and cosponsor of this bill for their support. We appreciate the Council of the District of Columbia's commitment to addressing this important constitutional and human rights issue concerning children. We urge the Council to pass this legislation and consider further reforms to hold youth accountable for their actions in an age-appropriate manner while providing them the opportunity for sentence review.

The Campaign is a national coalition and clearinghouse that coordinates, develops, and supports efforts to implement age-appropriate alternatives to the extreme sentencing of America's youth with a focus on abolishing life-without-release sentences for all children. We collaborate with policymakers, national and community organizations, and individuals directly impacted by these policies to develop solutions that keep communities safe while providing opportunities for children to reintegrate into society after demonstrated rehabilitation.

The Council of the District of Columbia should enact the Comprehensive Youth Justice Amendment Act of 2016 as it is an important first step to holding youth accountable for serious crimes while simultaneously recognizing the capacity all children have for growth and change. This Act prohibits the court from sentencing children to life imprisonment without the possibility of parole or release for offenses that occurred while the child was under 18 years of age. The District of Columbia should act now to ensure that all youth receive more age-appropriate sentences that both protect the community while also giving youth an incentive toward rehabilitation.

United States Supreme Court Decisions

Throughout the last decade, the United States Supreme Court has repeatedly concluded that children are constitutionally different from adults for the purpose of criminal sentencing. In *Roper v. Simmons* (2005), the Court struck down the death penalty for children, finding that it violated the 8th Amendment's prohibition against cruel and unusual punishment.[1] The Court

emphasized empirical research demonstrating that children are developmentally different than adults and have a unique capacity to grow and change as they mature.[2] In *Graham v. Florida* (2010), the Court struck down life-without-release sentences for non-homicide offenses, holding that states must give children a "realistic opportunity to obtain release."[3] In *Miller v. Alabama* (2012), the Court struck down mandatory life-without-release sentences for homicide offenses, and ruled that sentencing courts must "take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison" any time a child faces a potential life-without-release sentence.[4]

Just this January, the Supreme Court ruled in *Montgomery v. Louisiana* that the *Miller* decision applies retroactively to individuals serving mandatory life-without-release sentences for crimes they committed while under age 18. As the Court explains in *Montgomery*, the *Miller* decision "did more than require a sentencer to consider a juvenile offender's youth before imposing life without parole; it established that the penological justifications for life without parole collapse in 'light of the distinctive attributes of youth.'"[5] Additionally, considering youth-related mitigating factors at the time of sentencing is insufficient to protect against unconstitutional sentences if judges improperly evaluate an individual's capacity for rehabilitation. The Court held that "[e]ven if a court considers a child's age before sentencing him or her to a lifetime in prison, that sentence still violates the Eighth Amendment for a child whose crime reflects "unfortunate yet transient immaturity.'"[6] For the vast majority of children, life without release is an unconstitutional sentence. The Court notes that "*Miller* did bar life without parole, however, for all but the rarest of juvenile offenders, those whose crimes reflect permanent incorrigibility...*Miller*'s conclusion that the sentence of life without parole is disproportionate for the vast majority of juvenile offenders raises a grave risk that many are being held in violation of the Constitution."[7] By preserving life-without-release sentences for children, states regularly expose themselves to *Miller* and *Montgomery* violations. Based on adolescent brain science and the demonstrated potential all children have for rehabilitation, the Campaign believes it is impossible for courts to accurately predict which children are "irreparably corrupt."

The Comprehensive Youth Justice Amendment Act of 2016 ensures that the District of Columbia complies with the recent U.S. Supreme Court rulings by prohibiting life-without-release sentences. Several current D.C. statutes violate the U.S. Supreme Court's rulings in *Graham v. Florida* and *Miller v. Alabama*, which prohibit life-without-release sentences for all non-homicide and almost all homicide offenses, respectively, that were committed while an individual was under age 18. *Miller* requires the court to consider youth-related mitigating factors and have the opportunity to give a child a sentence less than life without release, which conflicts with current statutes.

The passage of the Comprehensive Youth Justice Amendment Act of 2016 would bring the District of Columbia into compliance with recent U.S. Supreme Court jurisprudence. The Campaign encourages the District of Columbia to act further to ensure that children are treated in more age-appropriate, trauma-informed ways after committing the most serious of offenses. The Campaign advocates for an amendment or additional legislation that enables judges to review sentences for children, ensuring that they receive a "meaningful opportunity for release" as the U.S. Supreme Court instructed, and preventing any child from dying in prison without the opportunity to demonstrate how she or he has matured and changed.

Demographics of Youth Serving Life Without Release

By sentencing youth under 18 to life in prison without any opportunity for release, we as a society are sentencing children to die in prison. We condemn them for life for their worst adolescent acts rather than allowing them to demonstrate their capacity to grow and change. Children serving this extreme sentence are regularly victims themselves long before becoming perpetrators of violence. Nationally, almost 80% of these youth witnessed violence in their homes and over half experienced violence weekly in their own neighborhoods.[8] Half were physically abused and 20% were sexually abused.[9] In addition to failing to protect these children before they commit crimes, the criminal justice system also fails to treat these children fairly at sentencing. Nationally, African American youth are sentenced to life in prison without any opportunity for review at a per capita rate of ten times that of their White counterparts for the same crime.[10] While most expect that the harshest penalty is reserved for the most severe offenders, almost two-thirds of youth sentenced to life in prison without release were involved in the criminal justice system for the first time.[11] A quarter of those serving this sentence were convicted of felony murder, in which they had no intention to kill anyone.[12]

Adolescent Developmental Research

Empirical research has demonstrated that adolescent brains are not fully developed. As many parents and educators could verify from personal experience, the adolescent brain does not fully mature until the mid-to-late twenties. Compared to adults, youth are less capable than adults in long-term planning, regulating emotion, impulse control, and the evaluation of risk and reward.[13] Additionally, youth as a whole are more vulnerable, more susceptible to peer pressure, and heavily influenced by their surrounding environment, which they rarely can control.[14] The majority of our laws reflect adolescents' diminished decision-making capacity, including limiting children's right to vote, prohibiting them from purchasing alcohol or tobacco, and preventing them from entering into contracts, yet our criminal laws uniquely treat them as adults.

Because the adolescent brain is still developing, children possess a unique capacity for change. The majority of children who commit crimes outgrow their delinquency behavior,[15] which means long prison sentences without release eligibility prematurely gives up hope for many youth who would likely grow to be contributing members of society. Many individuals who were sentenced to lengthy prison terms as youth currently contribute meaningfully to society, including by mentoring at-risk youth and helping individuals transition back to society after incarceration. The Campaign's Incarcerated Children's Advocacy Network was created by and is composed of formerly incarcerated youth that are living testimonies of young people's capacity for change.[16]

National and International Perspective

The United States is the only western country in the world that actively sentences children to die in prison.[17] This practice directly violates Article 37 of the United Nations Convention on the Rights of the Child, which prohibits the use of "capital punishment and life without the possibility of release" as sentencing options for people younger than 18.[18] The United States is the only country in the world that has not yet ratified this treaty.[19] One of the main reasons the

United States has refused to ratify this treaty is because it still sanctions life-without-release sentences for children.

The District of Columbia currently has the opportunity to join the growing number of jurisdictions that ban the practice of sentencing children to die in prison and are committed to giving youth a second chance. In the last four years, states as diverse as Texas,[20] West Virginia,[21] Hawaii,[22] Wyoming,[23] Delaware,[24] Massachusetts,[25] Connecticut,[26] Vermont,[27] and Nevada[28] have eliminated the practice of sentencing children to die in prison. They join states such as Alaska,[29] Colorado,[30] Kansas,[31] Kentucky,[32] and Montana[33] who had previously eliminated this sentence. This legislative session, Utah[34] and South Dakota[35] became the fifteenth and sixteenth states to wholesale ban the practice of sentencing children to die in prison. Just last week, the Iowa Supreme Court ruled that life-without-parole sentences for children under 18 are unconstitutional under the Iowa Constitution's prohibition against cruel and unusual punishment.[36]

In addition to state-based reform, the U.S. Senate is currently considering the Sentencing Reform and Corrections Act (S. 2123). It is sponsored by Judiciary Chair Senator Chuck Grassley of Iowa and cosponsored by 34 other Republican and Democratic Senators, including Ranking Member Sen. Patrick Leahy of Vermont, Sen. John Cornyn of Texas, Sen. Mike Lee of Utah, Sen. Rand Paul of Kentucky, Sen. Barbara Mikulski of Maryland, and Sen. Cory Booker of New Jersey. It passed out of the Judiciary Committee and is expected to reach the Senate floor in the near future. It is supported by a diverse coalition, including the Koch Brothers, the ACLU, the Faith and Freedom Coalition, and Texas think tank Right on Crime. One of the provisions, Section 209, would provide judicial review of sentences for all children under 18 in the federal system and would bring the federal government into compliance with recent U.S. Supreme Court cases. The Campaign encourages the Council of the District of Columbia to adopt a similar judicial review model as found in the Sentencing Reform and Corrections Act.

National organizations have expressed strong opposition to sentencing youth to prison for life with no chance at review. The American Bar Association passed a resolution calling for states to eliminate life without release as a sentencing option for youth, both prospectively and retroactively, and to "provide youthful offenders with meaningful periodic opportunities for release based on demonstrated maturity and rehabilitation."[37] The American Correctional Association, American Probation and Parole Association, and the National Association of Counties have passed similar resolutions.[38] Organizations including the American Psychological Association, the National Association of School Psychologists, the National Association of Social Workers, and the National Parent Teacher Association support ending life without release for youth.[39]

Costs to Society and Victims

In addition to the human rights and constitutional concerns for the District of Columbia to enact the Comprehensive Youth Justice Amendment Act of 2016, the Council must also consider the financial impact and loss of human capital. In the United States, it costs approximately $2.5 million to incarcerate a child for the duration of his or her life.[40] In contrast, a child with a high school education who is released after serving ten years could potentially contribute $218,560 in

tax revenue.[41] A formerly incarcerated child who obtains a college degree can potentially contribute $706,560 in tax revenue over his or her lifetime.[42] These estimates do not include the contributions that these individuals will make to the local economy, support for their families, and the impact they can have on future generations as role models for at-risk youth. Criminal justice reform is sound policy that protects public safety while allowing formerly incarcerated youth to tangibly repay society with positive contributions.

Finally, the Campaign has great concern for those who bear the greatest costs of any criminal justice policy—the loved ones of victims who have died due to violence. Our hearts go out to those who have been hurt by youth and we work closely with victims' family members who engage in restorative justice efforts to promote healing. We recognize that in many communities, families may have both loved ones hurt by violence and loved ones incarcerated for committing violent acts. We strongly encourage that the costs saved be redirected to improve support services for victims and their families and improve violence prevention programs.

Closing

Our criminal justice system serves complementary functions of protecting the community from safety threats, ensuring justice for victims, and rehabilitating offenders to rejoin society as productive contributors. The Comprehensive Youth Justice Amendment Act of 2016 is an important step in achieving all three of these goals. Youth should be held responsible for their actions, especially for serious crimes, and should be fully rehabilitated before being released. However, no single act as a teenager should destine a person to die in prison with no opportunity for reviews. We ask you to give these youth the opportunity to demonstrate they can change for the better.

Thank you,

Nikola Nable-Juris, J.D.
Policy Counsel, The Campaign for the Fair Sentencing of Youth

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[1] *Roper v. Simmons*, 543 U.S. 551 (2005).
[2] *Id.*
[3] *Graham v. Florida*, 130 S. Ct. 2011 (2010).
[4] *Miller v. Alabama*, 132 S.Ct. 2455 (2012).
[5] *Montgomery v. Louisiana*, No. 14-280, slip op. at 16 (2016), http://www.supremecourt.gov/opinions/15pdf/14-280_4h25.pdf
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[7] *Id.* at 20.
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[14] *Id.*
[15] *Id.*
[16] Incarcerated Children's Advocacy Network, http://fairsentencingofyouth.org/incarcerated-childrens-advocacy-network/
[17] Here Are All the Countries Where Children Are Sentenced to Die in Prison, Huffington Post, Saki Knafo, September 20, 2013, http://www.huffingtonpost.com/2013/09/20/juvenile-life-without-parole_n_3962983.html
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[19] *Id.*
[20] S.B. 2, 83rd Leg., Special Sess. (Texas 2013).
[21] HB, 4210, 81st Legislature, 1st Sess. (W. Virg. 2013).
[22] H.B. 2116, 27th Leg. (Hawaii 2014).
[23] H.B. 23, 62nd Leg., Gen. Sess. (Wy. 2013).
[24] S.B. 9, 147th Gen. Assemb., Reg. Sess. (Del. 2013).
[25] H 4307, 188th Gen. Court (Mass. 2014).
[26] S.B. 796, 2015 Reg. Sess. (Conn. 2015).
[27] H. 62, 2015 Reg. Sess. (Vt. 2015).
[28] A.B. 267, 78th Leg., Gen. Sess. (Nv. 2015).
[29] AK. STAT. § 33.16.010(a)
[30] COLO. REV. STAT. § 18-1.3-401(4)(b)(I) (West 2012).
[31] KAN. CRIM. CODE. § 21-4622.
[32] KY. REV. STAT. §640.040
[33] MONT. CODE § 46-18-222(1) (2007).
[34] H.B. 405, 61st Leg., Gen. Sess. (Ut. 2016).
[35] S.B. 140 2016 Reg. Sess. (SD. 2016).
[36] *Iowa v. Sweet*, No. 14-0455 (Iowa May 27, 2016).
[37] Resolution 107C, American Bar Association (Feb. 2015). Available at http://fairsentencingofyouth.org/resolutions-against-life-without-parole/
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Andre Williams
Testimony in Support
Comprehensive Youth Justice Amendment Act of 2016 (B21-0683)
Thursday, June 2, 2016

Dear Chair McDuffie and members of the Committee on the Judiciary,

My name is Andre Williams and I'm here to give the committee a look at what hope can look like for a child in prison.

I was born and raised in Washington, DC. I grew up with eight brothers and sisters. We were poor, so the goal was just to try to eat. And in turn, we sold drugs. I started selling drugs at 13 with my brothers. By the age of 17, I had realized the error of my ways and I stopped selling drugs. I got my first job at Riley Shears Reprographics, a printing company, and earned a legal salary. I then began working at the Government Printing Office when I was 19. I had a son and was providing for my family. In short, I grew up. I matured and changed and no longer was involved in any criminal activity.

But because I had been involved in a conspiracy that was still ongoing, federal authorities came and arrested me later on, when I was 21 years old. The judge sentenced me to a life-without-parole sentence for selling drugs from age 13 to 17.

I spent 24 years in federal penitentiary. In 2010, the U.S. Supreme Court ruled in *Graham v. Florida* that children could not be sentenced to life without parole for offenses when no one was killed. Because of this Supreme Court case, I was able to get my case back into court. I've been home for 18 months now.

I'm here to please ask this committee to give these youth hope. When you have a life sentence, it's hard to get programming, because the federal government prioritizes programming based on the length of your sentence. Their philosophy was, since you're never going home, you don't need to be rehabilitated. I fought really hard for some programming because I used to tell the counselors, look, just because the court told me I have a life sentence, I'm not going to do it. Some of them believed in me and gave me a chance. I became a certified dental technician.

My hope was internal, because I believed in myself, yet I watched other kids in prison who didn't have hope fall into the abyss in the penitentiary. In some cases, they went deep into the drug culture and the criminal culture. Some of them went crazy, because they didn't have any hope or any family members. Others were able to rise above their circumstances and change for the better. There are many others like me from DC that are still incarcerated and deserve a second chance.

I've been home for 18 months now. I currently have a full time job as a driver. I just incorporated a general contracting company and am hoping to get it off the ground in the coming months. I am enjoying spending time with my family. I'm also a member of the Incarcerated Children's Advocacy Network, or ICAN, a national network of formerly incarcerated youth who, like myself, are living examples of how children can grow and change.

I've changed from the teenager I was. I ask the committee to look at me, to see that children can change. Give us some hope, some chances, and some opportunity to rehabilitate ourselves, and I know children can change. Thank you.

Andre Williams

Alison P. Horn on behalf of Halim A. Flowers
Testimony to the DC Council, Committee on the Judiciary
June 2nd, 2016

Chairman McDuffie and members of the Council, thank you for the opportunity to address you today. My name is Alison Horn with Free Minds Book Club and Writing workshop. Today, I will be speaking on behalf of Halim Flowers, a man who is a living testament to the resiliency of young people in the criminal justice system, and someone who does tremendous work with Free Minds and other community organizations, working to end the school to prison pipeline. Halim could not be here to address you himself, because he is currently serving a life sentence for an offense committed when he was just 16 years old. I have brought along with me a photo of Halim at age 16, taken at the DC Jail in 1997. Halim's testimony is as follows.

My name is Halim A. Flowers, I am a 35 year old D.C. native. I am a publisher, an author, an at-risk youth and juvenile justice advocate, and currently enrolled in college courses at Ohio University. Also, I am a prisoner within the Federal Bureau of Prisons. On January 20, 1997, I was arrested for aiding and abetting a felony murder. Even though I was only 16 years of age, I was charged as an adult without a hearing to determine my juvenile status pursuant to D.C. Code Title 16 that revoked my status as a "child". The individual that was indicted as being the actual shooter in my case had all of his charges dismissed. Nonetheless, I was convicted for being an "unarmed" aider and abettor and sentenced to an indeterminate life sentence, with a mandatory minimum of 30 years before I can become eligible for parole.

During my 19 years of incarceration, I have learned to accept responsibility for my actions that resulted in the loss of the irreplaceable life of a human being. Through enrolling in psychology classes addressing victim's impact, the ripple effects of crime, criminal thinking errors, and restorative justice principles, I not only corrected my thinking error, but also committed to prevent other children in society from repeating the same destructive behaviors that I displayed as a reckless youth.

Through my writings, I have been blessed to positively impact the lives of at-risk youth in our country and other juveniles incarcerated as adults through my outreach work. I have worked with Tara Libert and the Free Minds Book Club that works with juveniles at CTF that are charged as adults, Sharon Content and Children Of Promise NYC that works with children with incarcerated parents in Brooklyn, D.C. Social Worker Jonathan McNair and his "Title 16" program that allows me to call and speak to high school students in the District, and Guidance Counselor Marquieta Luckey at the Youth Service Center. I have come to learn that all reckless youth are not unsalvageable, and with the proper resources accompanied with a setting that is conducive to effective change, our children can mature into productive members of society.

I hope that you will seriously consider passing the Comprehensive Youth Justice Amendment Act of 2016. Furthermore, I pray that this legislation can be amended so that it can be applied retroactively, in order to consider individuals like me; at-risk youth that had their "child" status revoked at the ages of 16 and 17 and have been imprisoned for decades as adults without any hope of ever being considered to be suitable for a successful transition back into society. Thank you for your time and your consideration.

Testimony to Council of the District of Columbia, June 2, 1026
Regarding B21-0683 - Comprehensive Youth Justice Amendment Act of 2016
Delivered by Lisa Pilnik, on behalf of the Coalition for Juvenile Justice

The Coalition for Juvenile Justice is pleased to offer this testimony regarding Bill 21-0683, the "Comprehensive Youth Justice Amendment Act of 2016." Each year, youth in D.C. and across the country become involved with the juvenile courts and placed in locked detention for behaviors that are only illegal if you are a minor, such as truancy, running away and being out past curfew. These acts, called status offenses, are often the result of unmet child and family needs including falling behind in school because of unsafe school environments; child abuse or neglect; or mistreated or undiagnosed disabilities. Research shows that locking up status offenders leads to worse outcomes for individual children and for their communities. Youth who are chronically truant, run away from home, or commit other non-criminal offenses are often best served by community and family services that do not involve the courts, or the juvenile justice system at all.

The Coalition for Juvenile Justice (CJJ), along with many other professional organizations in the fields of juvenile justice, child welfare and delinquency prevention believe that the juvenile justice system's response to status offenses should differ from responses to delinquent and criminal offenses, and should reflect current research on the developmental differences of children, teens, and adults. CJJ's practice and policy recommendations for this population, called the *National Standards for the Care of Youth Charged with Status Offenses*, call for keeping kids who commit these non-criminal offenses out of juvenile detention facilities and *out of the juvenile court system entirely whenever possible*. The *Standards* have been endorsed by a wide range of state and national groups including DC's Juvenile Justice Advisory Group, numerous other State Advisory Groups on Juvenile Justice, the National Council on Juvenile and Family Court Judges, the National PTA, Human Rights Campaign, Youth Law Center, and many others. CJJ's work on the *Standards*—and the support they've received from other organizations—are just part of *a growing national push* to reform responses to status offenders.

Here in DC, youth can be and are locked up for status offenses. In fact, in Fiscal Year 2014, the most recent year reported by the Office of Juvenile Justice and Delinquency Prevention, DC's use of secure confinement for status offenders was the 18th highest in the country, despite having the smallest population of any state or territory that follows this practice. Since those numbers were collected, three of the states that use the valid court order more often than DC, Kentucky, Kansas and California, have passed laws eliminating or sharply reducing their use secure confinement for status offenders. From truancy review boards to interventions designed to meet the needs of runaway youth who have experienced sexual victimization, jurisdictions across the country are exploring ways to help, rather than punish youth for non-criminal behaviors classified as status offenses; we hope that this Act will support DC's efforts to do so as well.

Because I know there are many groups here to testify on behalf of this bill today, I am submitting a more detailed summary of our recommendations on status offenses along with my testimony, and I am happy to answer any questions about them today or in the future. The Comprehensive Youth Justice Amendment Act of 2016, *which limits the ability to securely detain status offenders pretrial, is an important step towards the principles set out in the Standards and has the potential to positively impact DC youth and public safety. For that reason, CJJ is pleased to offer this testimony, and hope that this Act, along with other policy and practice changes and service provision, will ultimately lead to limiting juvenile court involvement whenever possible for DC youth charged with status offenses.*

BRIEF

NATIONAL STANDARDS FOR THE CARE OF YOUTH CHARGED WITH STATUS OFFENSES

I. BACKGROUND

The Coalition for Juvenile Justice's Safety, Opportunity & Success (SOS): Standards of Care for Non-Delinquent Youth is a multi-year partnership that engages State Advisory Group members, judicial leaders, practitioners, service providers, policymakers and advocates to guide states in implementing policy and practices that:

- Divert youth at risk for or charged with status offenses from the courts and connect them to family- and community-based systems of care that more effectively meet their needs;
- Eliminate the use of secure confinement for youth who commit status offenses.

A status offense is conduct that would not be considered a crime if committed by an adult. The most common examples of status offenses are truancy, running away, violating curfew laws, or possessing alcohol or tobacco.

II. NATIONAL STANDARDS FOR THE CARE OF YOUTH CHARGED WITH STATUS OFFENSES

As part of the SOS Project, the Coalition for Juvenile Justice created the *National Standards for the Care of Youth Charged with Status Offenses*, which aim to promote policies and best practices for this youth population, based in research and social service approaches, and better engage and support youth and families in need of assistance. The *National Standards* call for an absolute prohibition on detention of status offenders and seek to divert them entirely from the delinquency system by promoting the most appropriate services for families and the least restrictive placement options for youth.

The *National Standards* are divided into four sections:

- Principles for Responding to Status Offenses;
- Efforts to Avoid Court Involvement;

The *National Standards* are organized as follows:

- The Standard to be adopted is articulated in full – "the black letter."
- The need and underlying argument for the Standard is presented.
- One or more concrete practice or policy actions items are recommended that readers can take to advance and implement the Standard.

To read the *National Standards* in full, please visit http://www.juvjustice.org/our-work/safety-opportunity-and-success-project/national-standards-care-youth-charged-status.

- Efforts to Limit Court Involvement;
- Recommendations for Policy and Legislative Implementation.

The *National Standards* were developed by the Coalition for Juvenile Justice (CJJ) in partnership with the National Council of Juvenile and Family Court Judges (NCJFCJ) and a team of experts from various jurisdictions, disciplines and perspectives, including juvenile and family court judges, child welfare and juvenile defense attorneys, juvenile corrections and detention administrators, community-based service providers, and practitioners with expertise in responding to gender-specific needs. Many hours were devoted to discussing, debating and constructing a set of ambitious yet implementable standards that are portable, easily understood, and designed to spur and inform state and local policy and practice reforms.

III. PRINCIPLES FOR RESPONDING TO STATUS OFFENSES

The first section of the *National Standards* provides a frame and foundation from which professionals working day-to-day with families and youth alleged to have committed status offenses can operate to achieve positive outcomes for everyone. In doing so, this section highlights twelve key principles to which professionals should adhere to protect youth and family safety, promote family connections and permanence, and ensure youth and family well-being.

The twelve principles stipulate that judicial, legal, law enforcement, justice, social service and school professionals working with youth alleged to have committed status offenses and their families should:

1. Apply a child and family-centric approach to status offense cases by prioritizing child and family safety, well-being and permanency for the child;
2. Understand and apply current and emerging scientific knowledge about adolescent development, particularly as it relates to court-involved youth;
3. Understand positive youth development principles and how they can be used to achieve better outcomes for court-involved youth;
4. Ensure that past trauma and other experiences, which may underlie or lead to status-offending behaviors, are identified and responded to with appropriate screening, assessment, treatment, services and supports;

Facts about Status Offenses

- In 2010, 36 percent of status offense cases were for truancy (skipping school); 22 percent were for liquor law violations; 12 percent for being 'beyond the control of their parents'; 11 percent for running away from home; and 10 percent for curfew violations. (National Center for Juvenile Justice)
- In 2009, African American youth were three times more likely to run away from their homes than white youth and two times more likely to be considered 'beyond the control of their parents.' (National Center for Juvenile Justice)
- In 2009, girls accounted for almost half of all status offense cases. Between 1995 and 2009, girls made up 61 percent of all the runaway cases. (National Center for Juvenile Justice)
- LGBTQ youth often face bullying and harassment in school. In one study, 32.7 percent of LGBTQ students reported that they had missed school in the past month because they felt unsafe. These youth are at a greater risk of being arrested for truancy. (GLSEN)

5. Implement a status offense system framework that promotes shared leadership and responsibility by encouraging youth engagement in court, agency, and other meetings affecting their case, safety, well-being, treatment services and/or placement;
6. Utilize alternative dispute resolution strategies to resolve youth and family conflicts outside of the court system;

7. Employ family engagement strategies that identify and emphasize a family's strengths, and empower families to find and implement solutions outside of the court system;
8. Eliminate racial and ethnic disparities by being culturally aware and ensuring impartial and equal access to culturally-competent prevention and intervention services and treatment for youth charged with status offenses and their families;
9. Understand the developmental, behavioral and social differences between boys and girls and how their service needs are accordingly different. Make gender-responsive choices regarding interventions, treatment and services before, during, and following court involvement;
10. Ensure that lesbian, gay, bisexual, transgender, or questioning (LGBTQ) youth who are charged with status offenses receive fair treatment, equal access to services, and respect and sensitivity from all professionals and other youth in court, agency, service, school and placement;
11. Ensure children do not enter the status offense system because of learning, mental health, sensory, speech/language or co-occurring disabilities. Ensure that children with disabilities who do enter the status offense system are treated fairly and given access to needed evaluations, treatments and services;
12. Coordinate with other relevant formal and informal systems of care to better serve children and families.

IV. EFFORTS TO AVOID COURT INVOLVEMENT

This section of the *National Standards* discusses key principles and practices that shape how education, social service, community-based, child welfare, runaway and homeless youth, mental health, law enforcement and juvenile justice systems should first respond to youth and families at risk and in need of immediate assistance. They offer guidance to professionals on how to identify the reason(s) the child and family have been referred to them and select and deliver the best early intervention services that will help the child and family avoid court involvement.

Education, social service, community-based, child welfare, runaway and homeless youth, mental health, law enforcement and juvenile justice systems should:

1. Aim to resolve all status offense matters through the provision of voluntary diversion services;
2. Determine the proper course of action by identifying the family circumstances, unmet needs, or other factors that led to contact with the status offense system;

3. Train professionals who first respond to alleged status offenses about family and community dynamics and other factors that can cause status offense behaviors, as well as the availability and role of screenings, assessments and services.

Law enforcement systems should:

4. Focus on prevention and intervention by connecting children and families to needed services in lieu of charging or detaining children alleged to have committed status offenses.

Education systems should:

5. Implement responses to truancy that match the reasons youth are absent from school and that aim to avoid court involvement, school suspension or expulsion.

Child welfare, juvenile justice and runaway and homeless youth systems should:

6. Implement responses to alleged status offense behaviors that aim to avoid court involvement and are tailored to the reasons the youth and family have been referred to the child welfare, juvenile justice or runaway and homeless youth system.

Court intake personnel should:

7. Not accept jurisdiction over any status offense case until it has been determined that the applicable statutory requirements were met and that the agency that first responded to the claim made reasonable efforts to avoid court involvement by exhausting all available, culturally appropriate, pre-court assessments, services, entitlements and treatments.

SOS Project Products

In addition to the *National Standards for the Care of Youth Charged with Status Offenses*, the Coalition for Juvenile Justice has released several publications related to status offenses. These SOS Project products include:

Disproportionate Minority Contact and Status Offenses
Available at: http://www.juvjustice.org/sites/default/files/resource-files/DMC%20Emerging%20Issues%20Policy%20Brief%20Final_0.pdf

Girls, Status Offenses and the Need for a Less Punitive and More Empowering Approach
Available at: http://www.juvjustice.org/sites/default/files/resource-files/SOS%20Project%20-%20Girls%2C%20Status%20Offenses%20and%20the%20Need%20for%20a%20Less%20Punitive%20and%20More%20Empowering%20Approach_0.pdf

Ungovernability and Runaway Youth
Available at: http://www.juvjustice.org/sites/default/files/resource-files/Ungovernable%20and%20Runaway%20Youth%20Guidance.pdf

LGBTQ Youth and Status Offenses
Available at: http://www.juvjustice.org/sites/default/files/resource-files/LGBTQ%20Youth%20Guidance%20FINAL.pdf

Use of the Valid Court Order
Available at: http://juvjustice.org/sites/default/files/resource-files/State%20VCO%20usage.pdf

Truancy and Other Status Offenses
Available at: http://juvjustice.org/sites/default/files/resource-files/Guidance%20For%20Education%20Professionals%20and%20Systems.pdf

V. EFFORTS TO LIMIT COURT INVOLVEMENT

The third section of the *National Standards* focuses on what efforts court system stakeholders should make to limit court involvement when pre-court diversion efforts have not yielded desired outcomes. The following Standards offer guidance to judicial, legal and other professionals working within the court system on how they can use the court's powers to ensure the proper services are implemented while avoiding deeper court involvement. They also provide guidance at various stages of the case to ensure best outcomes for youth and families.

Endorsements of the National Standards

The National Standards for the Care of Youth Charged with Status Offenses have been endorsed by a wide range of state and national groups including:

To view the full list of endorsements please visit http://juvjustice.org/our-work/safety-opportunity-and-success-project/national-standards/endorsements. If you would like to endorse the *National Standards*, please contact Lisa Pilnik at pilnik@juvjustice.org.

Judicial officers should:

1. Dismiss or, alternatively, stay proceedings when community-based services or other formal or informal systems approaches would circumvent the need for continued court jurisdiction;
2. Assess early whether the Indian Child Welfare Act (ICWA) applies;
3. Ensure youth charged with status offenses have independent, qualified and effective legal representation throughout status offense proceedings;
4. Not allow children in status offense cases to waive counsel or alternatively only allow waiver if: (1) the waiver is on the record, (2) the court has fully inquired into the child's understanding and capacity and (3) the waiver occurs in the presence of and in consultation with an attorney;
5. Exercise their statutory and inherent authorities to determine, prior to adjudication, whether youth and families received, in a timely manner, appropriate interventions that could have limited their court involvement;
6. Exercise their statutory and inherent authorities throughout the child and family's court involvement to ensure that service delivery systems are providing the appropriate assessments, treatments and services to children and families in status offense cases;
7. Assess alternatives to out-of-home placement or secure confinement;
8. Not securely detain or confine youth at any point in the status offense process.

Lawyers for alleged and adjudicated status offenders should:

9. Advocate for voluntary and community-based assistance to limit and/or avoid continued court involvement and secure confinement;
10. Advocate for child clients to be treated fairly throughout the court process and for their due process rights to be protected;
11. Ensure that child clients' rights and entitlements under relevant federal and state laws are protected.

Judicial officers and entities providing case management services should:

12. Effectively manage and close court and agency cases in a timely manner.

Additional Resources on Status Offenses

The **Coalition for Juvenile Justice's SOS Project** is a multi-year partnership that engages State Advisory Group members, judicial leaders, practitioners, service providers, policymakers and advocates to guide states in implementing policy and practices that help youth who are at risk of, or charged with committing status offenses. For more information visit: http://www.juvjustice.org/sos.

The **Administration for Children and Families** at the U.S. Department of Health and Human Services provides a directory of providers serving runaway and homeless youth across the nation. For more information visit: http://www.hhs.gov/homeless/resources/.

The **American Bar Association** provides practical guidance to attorneys representing status offenders in and out of court. For more information visit: http://www.americanbar.org/groups/child_law/what_we_do/projects/status_offenders.html.

The **National Council on Juvenile and Family Court Judges** is undertaking efforts to educate and equip judges to eliminate use of the valid court order (VCO) exception and instead rely on evidence-informed strategies that do not result in locked detention. For more information visit: http://www.ncjfcj.org/our-work/detention-alternatives.

Office of Juvenile Justice and Delinquency Prevention (OJJDP) has a DSO Best Practices Database, which offers a searchable database containing profiles of promising programs and strategies in each of the five major status offense categories. For more information visit: http://www.juvenilejustice-tta.org/resources/dso/about-dso

The **Status Offense Reform Center (SORC)** provides policymakers and practitioners with tools and information to create effective, community-based responses for keeping young people who engage in non-criminal behavior out of the juvenile justice system and safely in their homes and communities. The Center is a project of the Vera Institue of Justice and is supported by the John D. and Catherine T. MacArthur Foundation's Models for Change Resource Center Partnership. For more information visit: www.statusoffensereform.org.

VI. RECOMMENDATIONS FOR POLICY AND LEGISLATIVE IMPLEMENTATION

The last section includes recommendations for policymakers to institute legislative, policy, administrative and budgetary changes that align with and support the implementation of the previous sections of the *National Standards*. This list of state and federal law and policy recommendations should be used by federal, state and local policymakers to help effect meaningful changes to status offense laws and policies. These changes can promote early intervention, diversion, and increased and coordinated services and support for youth and their families. This section can also be used by policy advocates to support their organizational efforts to change state and

federal laws, policies and budgetary schemes to support better outcomes for young people in or at risk of entering the status offense system.

State and local policymakers and advocates should:

1. Eliminate juvenile court penalties and sanctions for behaviors labeled status offenses and ensure that systems are accurately responding to behaviors as either episodes of normal adolescent behavior, or critical unmet youth and family needs that are best resolved through non-judicial interventions and supports;
2. Support an infrastructure of community-based and child and family serving programs and systems to ensure direct youth and family access to a seamless, comprehensive and non-judicial continuum of care that is empowered and resourced to respond to behaviors that might otherwise be labeled as status offenses;
3. In those limited circumstances where court involvement is necessary, ensure court mechanisms are in place that allow the appropriate court division to effectively serve the needs of the youth and family without inappropriate use or risk of more punitive outcomes for the child and family;
4. Prohibit schools from referring youth who engage in status offense behaviors to court unless and until the school has made all reasonable efforts to avoid court involvement;
5. Prohibit parents/caregivers from referring youth who engage in status offense behaviors to the juvenile court until the family has first sought and meaningfully engaged non-judicial interventions;
6. Promote coordinated, blended or braided public funding streams that create a seamless, comprehensive community-based continuum of care for youth and families;
7. Enact laws that ensure the right to counsel for youth who come into contact with the juvenile court for a status offense by not allowing youth to waive their right to counsel or only allowing waiver if: (1) it is on the record, (2) the court has fully inquired into the child's understanding and capacity, and (3) the waiver occurs in the presence of and in consultation with an attorney;
8. Prohibit the use of locked confinement for youth petitioned to court for a status offense;
9. Mandate meaningful efforts to engage youth and families in all aspects of case planning, service delivery, court proceedings and disposition strategies.

Federal policymakers and advocates should:

10. Amend the federal Juvenile Justice and Delinquency Prevention Act (JJDPA) to prohibit the use of the valid court order (VCO) exception to securely confine youth adjudicated for status offenses;
11. Strengthen relevant federal agencies to provide research, training and technical assistance to state and local authorities to better assist state status offense system reform efforts;

12. Create coordinated approaches between federal government agencies and programs that serve youth and families that will help states coordinate, blend or braid federal funding streams to create a seamless, comprehensive and, to the greatest extent possible, non-judicial continuum of care for youth and families.

Research shows that locking up status offenders leads to worse outcomes for individual children and for their communities. Youth who are chronically truant, run away from home, or commit other non-criminal offenses are best served by community and family services that do not involve the courts or juvenile justice system at all. The Coalition for Juvenile Justice believes that every effort must be made to protect these youth from the damaging effects of justice system involvement.

COALITION FOR JUVENILE JUSTICE

To learn more about the Coalition for Juvenile Justice Safety, Opportunity & Success: Standards of Care for Non-Delinquent Youth Project:

Contact: Lisa Pilnik, CJJ Deputy Executive Director, 202-467-0864, Pilnik@juvjustice.org

Visit: http://www.juvjustice.org/sos
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TESTIMONY IN SUPPORT OF
COMPREHENSIVE YOUTH JUSTICE AMENDMENT ACT OF 2016
Maheen Kaleem, Staff Attorney, Rights4Girls
June 2, 2016

Good morning Council Members. My name is Maheen Kaleem and I am a staff attorney at Rights4Girls, a human rights organization based here in Washington, D.C. Our mission is to combat gender-based violence impacting vulnerable and marginalized girls and young women in the United States. We work actively at the global and national level to shed light on the gendered violence that girls and women in the United States experience, and to advocate for policies and programs that can bring an end to this violence and achieve justice for survivors. We are here today to discuss the importance of two provisions within the Comprehensive Youth Justice Amendment Act of 2016: the elimination of detention for children deemed Persons In Need of Supervision, or PINS for short, and the extension of anti-shackling protections to all youth. If passed, these two provisions would go a long way in ensuring that our most vulnerable children—girls who have been sexually and physically traumatized, are not placed at further risk for harm and trauma when they come into contact with the juvenile justice system.

PINS are children who commit status offenses, or nonviolent acts that would not warrant any court involvement if committed by an adult. These offenses include running away, truancy, curfew violations, or underage drinking. Despite the fact that girls remain a minority in the juvenile justice system as a whole, girls are disproportionately arrested for status offenses—in 2011, girls accounted only 16% of the national population of youth in detention, and yet they accounted for 40% of children arrested and detained for status offenses. Girls account for 60% of all runaway cases.

There is growing national consensus that the detention of status offenders or PINS is not only unwarranted, but harmful. In fact, there is a presumption under the federal Juvenile Justice and Delinquency Prevention Act (JJDPA), the law that sets standards and guidelines for state juvenile justice systems, that states avoid the detention of status offenders. The JJDPA prohibits the detention of status offenders upon initial arrest, but includes an exception when that child has

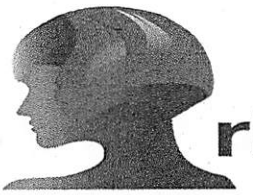
already been arrested but violates a valid court order. This exception is titled the VCO Exception. Use of the VCO exception disproportionately impacts girls, who often come in front of the court *because* of sexual and gendered violence.

In 2015, Rights4Girls partnered with the Georgetown Law Center on Poverty and the Ms. Foundation to co-author a report entitled, *The Sexual Abuse to Prison Pipeline: The Girls' Story*. The Sexual Abuse to Prison Pipeline documents the way in which girls all over the country are funneled into the juvenile justice system as a *result* of being sexually victimized. Our research demonstrates that anywhere from 73 to 81% of girls in the juvenile justice system *report* experiencing childhood sexual abuse prior to entering the system, and that too often, these girls are criminalized for that victimization.

To put this into context, I ask you to consider the story of a girl I know, who we will call Jasmine. Jasmine was arrested for "absconding" and was brought before a judge. When she appeared in court, her mother and her mother's boyfriend were present. When Jasmine was asked why she was running away, she said nothing and shrugged her shoulders. The court ordered Jasmine to stop running away, or else the judge would use the VCO exception to lock her up. Two weeks later, she was arrested again for running away and she was locked up. This pattern continued for months, until it was finally uncovered that her mother's boyfriend was sexually abusing her.

To incarcerate Jasmine, a victim of child sexual abuse for running away from an abuser not only further traumatizes her, but it reinforces something that her abuser was likely telling her—that she was a bad girl, that she should be ashamed, and that if she sought help, she would be punished. Part of the layered complexity of sexual violence is the shame and culpability that victims feel—particularly girls who are likely to be sexually victimized by people they know.

Unfortunately, too many of the children who fall under the PINS category have stories similar to Jasmine's. Around the country, juvenile experts, judges, and advocates have acknowledged the harmful impact of the VCO exception, which has been disproportionately used to incarcerate children who pose no threat to public safety. In a statement given on the



Senate Floor in support of the reauthorization of the Juvenile Justice and Delinquency Prevention Act, Senator Chuck Grassley, republican chairman of the Senate Judiciary Committee, expressed the need to eliminate the VCO exception, because "Research shows that detention tends to make mentally ill status offenders worse," and exposure to children engaged in more high-risk behaviors can be dangerous for status offenders. Perhaps most importantly, the National Council of Juvenile and Family Court Judges, on which our own presiding judge of the Family Court Judge Puig-Lugo serves on the Board of Directors, issued a resolution calling for the elimination of the VCO exception because juvenile court judges around the country recognize that there is no justification to incarcerate status offenders.

One issue our organization has advocated actively at the federal level on is the issue of domestic child sex trafficking. Under both D.C. law and federal law, a child is considered a human trafficking victim when they exchange sex for anything of value—shelter, food, money, etc. Last year D.C. became one of 14 states around the country who have deemed these victims immune from prosecution for prostitution, because in the words of our national campaign there is No Such Thing as a Child Prostitute—only victims of child rape. While children are no longer being prosecuted for prostitution, trafficking victims in the District of Columbia continue to be arrested for status offenses that are directly linked to their sexual exploitation. Imagine the trafficked child who is arrested for truancy because she is forced to work instead of attending school, or as trafficking survivor and founder of Courtney's House Tina Frundt tells us, is kept home from school by her parents who are afraid her trafficker will find her. Imagine the child who is paid to be sexually abused by adults in order to support her family. Imagine the child who is so bonded with her trafficker that she continues to run away from home or be out past curfew. These children are victims of child abuse, and to treat them as criminals is not only to deny their victimization, but to make it much harder to build the trust necessary to provide that child with the support, love, services, and compassion necessary for her to begin her healing process.

Finally, we would like to express our support for the provisions in the bill that extend protections against unnecessary or harmful restraints to all children, particularly those pregnant girls who are not yet in their third trimester of pregnancy or postpartum, and girls with histories

of sexual violence. Last year, the Council accurately recognized that the use of unreasonable restraints on children in their third trimester of pregnancy or in postpartum recovery not only violated the basic human rights and dignity of those children, but also placed both the mother and baby at significant risk. In 2012, Rights4Girls, Executive Director Yasmin Vafa served on Department of Justice' National Task Force on the Use of Restraints on Pregnant Women and Girls Under Correctional Custody which published a report on the Best Practices in the Use of Restraints on Pregnant Women and Girls Under Correctional Custody. This task force included the American Jail Association, the National Commission on Correctional Health Care, the Bureau of Prisons, and several medical experts on obstetrics and gynecology. These experts concluded that the use of restraints at any point during pregnancy not only limits the ability of medical care providers to evaluate and assess a patient's likelihood of falls, life-threatening embolic complications, impediments to epidurals, and emergency obstetrical intervention, but also increases the risk of re-traumatization on girls who likely come from extensive histories of physical and sexual violence, and experience heightened emotional and mental vulnerabilities during pregnancy.

In D.C. as all over the country, girls are the fastest growing share of the juvenile justice population—in fact over the past decade, the population of girls in detention here in the District has increased three-fold. Girls who come into contact with our systems may not disclose or even know at intake that they are pregnant. They are also less likely to report that they have recently experienced sexual violence, despite the fact that we have data that demonstrates that in some jurisdictions, 22% of girls had experienced sexual assault within *7 days* of being arrested. To condition protection from unreasonable restraints on their own disclosures is to ignore what we already know about our girls and about extensive trauma histories they experience. To subject these incredibly vulnerable children to anything other than the least-restrictive restraints is not only inhumane, but incredibly harmful.

For these reasons, and on behalf of our most vulnerable girls, we urge you to support the Comprehensive Youth Justice Amendment Act of 2016.

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Testimony Before the District of Columbia Council
Committee on the Judiciary
June 2, 2016

Public Hearing:
B21-0683, the "Comprehensive Youth Justice Amendment Act of 2016"

Sharra E. Greer
Policy Director
Children's Law Center

Introduction

Good morning Chairman McDuffie and members of the Committee on the Judiciary. My name is Sharra E. Greer. I am the Policy Director at Children's Law Center[1] and a resident of the District. I am testifying today on behalf of Children's Law Center, which fights so every DC child can grow up with a loving family, good health and a quality education. With 100 staff and hundreds of pro bono lawyers, Children's Law Center reaches 1 out of every 9 children in DC's poorest neighborhoods – more than 5,000 children and families each year.

We support the goal of this bill to bring critical reforms to the District of Columbia's juvenile justice system that prioritize rehabilitation, reduce over-incarceration, restore judicial discretion, promote humane confinement, enhance agency oversight, and protect young immigrants. We have a few specific concerns that are primarily technical. One change we are recommending is particularly important to correct an unintended impact on children who have been abused or neglected.[2]

I am going to focus my testimony today on a part of the bill that removes a barrier to moving cases forward in DC Superior Court that poses a particular problem in custody cases. In order for most court proceedings to move forward, the affected parties must be notified, usually by notifying the party in person, or "serving process." If that is not possible, because for example the party lives outside of the District, the party can be notified by publication. DC Code section 13-336(a) states that "publication

may be substituted for personal service of process upon a defendant who can not be found and who is shown by affidavit to be a nonresident, or to have been absent from the District for at least six months..." Unfortunately, this does not authorize service by publication when a plaintiff does not know the whereabouts of the defendant or the defendant is purposefully avoiding service. As a result, cases are often delayed for long periods of time without any way to move the proceedings forward. This is a particular challenge for children in custody cases. If one of the parents cannot be located, or is avoiding service, the status of the child's legal custodian stays in limbo.

We are strongly supportive of the change proposed by this legislation that would allow service by publication when the "defendant who cannot be found after diligent efforts or who by concealment seeks to avoid the service of process."[3] This change will resolve the problem and allow many cases to move forward. Service by publication in these circumstances is common and brings the District in line with other jurisdictions.[4]

We do urge one change to this section. Many of our clients, and the *pro se* clients in family court seeking custody, live at or significantly below poverty. The least expensive publication costs $75 and at times plaintiffs are required to publish in two publications.[5] This cost presents a significant hardship for many of our clients. DC Code currently allows in divorce proceedings, when satisfactory evidence is presented to the court that the plaintiff is unable to pay the cost of publishing an advertisement, the court to direct that publication can made by posting the order of publication in the

Clerk's Office of the Family Division of the Superior Court.[6] We would urge this option be available in custody matters as well.[7]

Thank you for the opportunity to testify, and I look forward to answering any questions.

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[1] Children's Law Center fights so every child in DC can grow up with a loving family, good health and a quality education. Judges, pediatricians and families turn to us to be the voice for children who are abused or neglected, who aren't learning in school, or who have health problems that can't be solved by medicine alone. With 100 staff and hundreds of pro bono lawyers, we reach 1 out of every 9 children in DC's poorest neighborhoods – more than 5,000 children and families each year. And, we multiply this impact by advocating for city-wide solutions that benefit all children.

[2] Under current law (§ 16-2310(b)), a child may not be placed in shelter care prior to a fact finding hearing or dispositional hearing unless doing so meets the three requirements stated in that section. The bill would additionally require that the child be alleged to be delinquent or in need of supervision before the child could be placed in shelter care. The change would eliminate the ability to place into shelter care children removed from a home because of abuse or neglected before an initial hearing. This would leave these children with no place to be housed for 72 hours. We do not believe the intent of this amendment was to prevent the placement of abused or neglected children into foster care prior to an initial hearing. We urge this section be changed. We also have some additional suggestions regarding the changes to the confidentiality provisions which we look forward to discussing with the committee.

[3] Sec. 601.

[4] For example:

- Washington: "When the defendant, being a resident of this state, has departed therefrom with intent to defraud his or her creditors, or to avoid the service of a summons, or keeps himself or herself concealed therein with like intent"- West's RCWA 4.28.100.
- Wyoming: "In suits for divorce, for alimony, to affirm or declare a marriage void, or the modification of any decree therefor entered in such suit, when the defendant is a nonresident of the state, or the defendant's residence cannot be ascertained, or the defendant keeps concealed in order to avoid service of process" Wyoming Rules of Civil Procedure, Rule 4.
- Alabama: "When a defendant avoids service and that defendant's present location or residence is unknown and the process server has endorsed the fact of failure of service and the reason therefor on the process and returned it to the clerk or where the return receipt shows a failure of service, the court may, on motion, order service to be made by publication" -ARCP Rule 4.3.
- Nevada: "In addition to methods of personal service, when the person on whom service is to be made resides out of the state, or has departed from the state, or cannot, after due diligence, be

found within the state, or by concealment seeks to avoid the service of summons, and the fact shall appear, by affidavit, to the satisfaction of the court or judge thereof, and it shall appear, either by affidavit or by a verified complaint on file, that a cause of action exists against the defendant in respect to whom the service is to be made, and that the defendant is a necessary or proper party to the action, such court or judge may grant an order that the service be made by the publication of summons" -NV ST RCP Rule 4.

- Virginia: "That diligence has been used without effect to ascertain the location of the party to be served" -VA Code Ann. § 8.01-316.
- Maryland: "Plaintiff has shown by affidavit that the whereabouts of the defendant are unknown and that reasonable efforts have been made in good faith to locate the defendant" -MD Rules, Rule 2-122.

[5] Washington Times Publication Cost as of 5/16.

[6] DC Code 13-340.

[7] Specifically we propose amending DC Code section 13-340(a) to read "In actions for divorce ***or child custody under D.C. Official Code, Title 16, Chapter 45*** in which service by publication is authorized under this chapter, and satisfactory evidence is presented to the court that the plaintiff is unable to pay the cost of publishing an advertisement pursuant to D.C. Official Code sec. 13-340, without substantial hardship to himself or herself, or to his or her family, the court may direct that such publication may be made by posting..."

AMARA LEGAL CENTER

BILL NO: Bill 21-0683
TITLE: Comprehensive Youth Justice Amendment Act of 2016
COMMITTEE: Committee on the Judiciary
HEARING DATE: June 2, 2016
POSITION: **SUPPORT**

The Amara Legal Center supports the passage of Bill 21-0683. Amara is a nonprofit organization that provides free legal services to individuals whose rights have been violated while involved in commercial sex. Our services include assistance to minors and youth who are survivors of sex trafficking in D.C. Many minors who have survived sex trafficking are also runaways or truants who may be identified as persons in need of supervision ("PINS") and then detained as a result. Detaining minors who have already suffered the severe trauma of sex trafficking only exacerbates that trauma. With this in mind, Amara supports B21-0683 as it halts the detention of PINS youth, who may also be survivors of sex trafficking.

Truants and runaways should not be detained. Instead, they should be directed to the appropriate social services. The focus should be on identifying the reasons specific to a minor's truancy or flight. Detention does not resolve children's underlying problems, and may make the problems worse.

Similarly, runaways and truant youth who are also victims of sex trafficking may be fleeing abuse. Detaining these children exacerbates their trauma rather than focusing on services that could treat their trauma. Youth who have experienced sex trafficking should be directed to organizations that will provide access to safe and secure housing, medical and mental health treatment, individual counseling, or other services. Local organizations such as Courtney's House and Fair Girls are a great resource for identifying minors who are survivors of sex trafficking and meeting their needs.

This bill will help ensure that our community's youth avoid secure detention where it would cause more harm, and allows for youth to be directed instead to social services where they can receive treatment.

Testimony on behalf of the
American Civil Liberties Union of the Nation's Capital
by
Monica Hopkins-Maxwell
Executive Director

before the
Committee on the Judiciary
of the Council of the District of Columbia
Bill 21-0683, the "Comprehensive Youth Justice Amendment Act of 2016"

June 2, 2016

Thank you for the opportunity to testify in support of Bill 21-0683, the Comprehensive Youth Justice Amendment Act of 2016. The ACLU of the Nation's Capital (ACLU-DC) commends the Council for addressing several needed and important reforms in the District's juvenile justice system by prioritizing youth rehabilitation, reducing the over-incarceration of youth, improving the conditions of confinement of youth in secure facilities, strengthening government accountability and requiring age-appropriate sentencing for adolescents.

The ACLU is particularly pleased to see and has high hopes for the pre-adjudication, balanced and restorative justice model of victim-offender mediation as an alternative to prosecution of juveniles. The Council should consider this model for justice-involved adults as well.

There is so much to speak to in this bill, but today I will focus our comments specifically on the provision dealing with solitary confinement.

BACKGROUND

The solitary confinement of children is child abuse, plain and simple. And still, on any given day in this country, juvenile justice facilities routinely subject the 70,000 kids in their care to solitary confinement. Solitary can cause extreme psychological, physical, and developmental harm. For adults, the effects can be persistent mental health problems, or worse, suicide. And for children, who are still developing and more vulnerable to irreparable harm, the risks of solitary are magnified – particularly for kids with disabilities or histories of trauma and abuse.

Officials often claim they need solitary confinement to separate youth after a fight, to discipline them when they act out, or for administrative reasons.[1] Both protective and punitive isolation practices frequently involve confining youth alone in a cell for several hours at a time, sometimes for 22-24 hours per day, sometimes for days, weeks, or months. Extreme social isolation is harmful in itself; it also frequently coincides with restricted visitation with family members, limited educational materials, and curtailed physical exercise privileges.[2]

SOLITARY CONFINEMENT HARMS CHILDREN

Solitary confinement is well known to harm previously healthy adults, placing any prisoner at risk of grave psychological damage. Children, who have special developmental needs, are even more vulnerable to the harms of prolonged isolation.

- **Psychological Damage:** Mental health experts agree that long-term solitary confinement is psychologically harmful for adults—especially those with pre-existing mental illness.[3] And the effects on children are even greater due to their unique developmental needs.[4]
- **Increased Suicide Rates:** A tragic consequence of the solitary confinement of youth is the increased risk of suicide and self-harm, including cutting and other acts of self-mutilation. According to research published by the Department of Justice, more than 50% of all youth suicides in juvenile facilities occurred while young people were isolated alone in their rooms, and that more than 60% of young people who committed suicide in custody had a history of being held in isolation. [5]

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[1] See Reassessing Solitary Confinement: The Human Rights, Fiscal, and Public Safety Consequences: Hearing Before the Subcomm. on the Constitution, Civil Rights, and Human Rights of the S. Comm. on the Judiciary, 112th Cong. 4 (2012) (statement of Youth Law Center), available at http://solitarywatch.com/wpcontent/uploads/2012/06/youth-law-center2.pdf.

[2] Id.; Reassessing Solitary Confinement: The Human Rights, Fiscal, and Public Safety Consequences: Hearing Before the Subcomm. on the Constitution, Civil Rights, and Human Rights of the S. Comm. on the Judiciary, 112th Cong. (2012) (statement of the Center for Children's Law and Policy), available at http://solitarywatch.com/wp-content/uploads/2012/06/center-for-childrens-law-and-policy.pdf. DOJ research found that half of young people held in isolation for 2 hours or longer reported that they had not spoken with a counselor or mental health professional while incarcerated (including while in isolation). U.S. DEP'T OF JUSTICE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, CONDITIONS OF CONFINEMENT: FINDINGS FROM THE SURVEY OF YOUTH IN RESIDENTIAL PLACEMENT 19 (May 2003), available at https://www.ncjrs.gov/pdffiles1/ojjdp/227729.pdf

[3] See, e.g., Stuart Grassian, Psychopathological Effects of Solitary Confinement, 140 AM. J. OF PSYCHIATRY 1450, 1452 (1983); Richard Korn, The Effects of Confinement in the High Security Unit at Lexington, 15 SOC. JUST. 8 (1988); Stanley L. Brodsky & Forrest R. Scogin, Inmates in Protective Custody: First Data on Emotional Effects, 1 FORENSIC REP. 267 (1988); Craig Haney, Mental Health Issues in Long-Term Solitary and "Supermax" Confinement, 49 CRIME & DELINQ. 124, 130, 134 (2003); Holly A. Miller & Glenn R. Young, Prison Segregation: Administrative Detention Remedy of Mental Health Problem?, 7 CRIM. BEHAV. & MENTAL HEALTH 85, 91 (1997); HANS TOCH, MOSAIC OF DESPAIR: HUMAN BREAKDOWN IN PRISON (Am. Psychol. Ass'n., 1992).

[4] AM. ACAD. OF CHILD & ADOLESCENT PSYCHIATRY, POLICY STATEMENTS: SOLITARY CONFINEMENT OF JUVENILE OFFENDERS (Apr. 2012), available at http://www.aacap.org/cs/root/policy_statements/solitary_confinement_of_juvenile_offenders; Sandra Simkins, Marty Beyer & Lisa Geis, The Harmful Use of Isolation in Juvenile Facilities: the Need for Post-Disposition Representation, 38 WASH. U.J.L. & POL'Y 241, 257-61 (2012).

[5] Id. at 27; see also Seena Fazel, Julia Cartwright, et al., Suicide in Prisoners: A Systematic Review of Risk Factors, J. CLIN. PSYCHIATRY 69 (2008); CHRISTOPHER MUOLA, DEP'T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, SUICIDE AND HOMICIDE IN STATE PRISONS AND LOCAL JAILS (2005), available at

- **Denial of Education and Rehabilitation:** Access to regular meaningful exercise, to reading and writing materials, and to adequate mental health care—the very activities that could help troubled youth grow into healthy and productive citizens—is hampered when youth are confined in isolation. [6] Failure to provide appropriate programming for youth hampers their ability to grow and develop normally, to access legal services, and to contribute to society upon their release.[7]
- **Stunted Development:** Young people's brains and bodies are developing, placing youth at risk of physical and psychological harm when healthy development is impeded.[8] Children have a special need for social stimulation.[9] And since many children in the juvenile justice system have disabilities or histories of trauma and abuse, solitary confinement can be all the more harmful to the child's future ability to lead a productive life.[10] Youth also need exercise and activity to support growing muscles and bones.[11]

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http://bjs.ojp.usdoj.gov/content/pub/pdf/shsplj.pdf. The study by Lindsay M. Hayes of the Department of Justice suggests that, "When placed in a cold and empty room by themselves, suicidal youth have little to focus on—except all of their reasons for being depressed and the various ways that they can attempt to kill themselves" at 42, citing LISA M. BOESKY, JUVENILE OFFENDERS WITH MENTAL HEALTH DISORDERS: WHO ARE THEY AND WHAT DO WE DO WITH THEM? 210 (2002).

[6] See Statement of the Center for Children's Law and Policy, supra note 4; DEP'T OF JUSTICE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, CONDITIONS OF CONFINEMENT: FINDINGS FROM THE SURVEY OF YOUTH IN RESIDENTIAL PLACEMENT, supra note 4, at 19.

[7] CTRS FOR DISEASE CONTROL TASK FORCE ON COMMUNITY PREVENTIVE SERVICES, EFFECTS ON VIOLENCE OF LAWS AND POLICIES FACILITATING THE TRANSFER OF YOUTH FROM THE JUVENILE TO THE ADULT JUSTICE SYSTEM (2007), available at http://www.cdc.gov/mmwr/pdf/rr/rr5609.pdf; BARRY HOLMAN & JASON ZIEDENBERG, JUSTICE POLICY INST., THE DANGERS OF DETENTION (2006), available at http://www.justicepolicy.org/images/upload/06-11_REP_DangersOfDetention_JJ.pdf.

[8] AM. ACAD. OF CHILD & ADOLESCENT PSYCHIATRY, POLICY STATEMENTS: SOLITARY CONFINEMENT OF JUVENILE OFFENDERS, supra note 6; Lawrence Steinberg et al., The Study of Development Psychopathology in Adolescence: Integrating affective neuroscience with the study of context, in DEVELOPMENTAL PSYCHOPATHOLOGY 710 (DANTE CICCHETTI & DONALD J. COHEN EDS., 2d ed. 2006); Jay N. Giedd, Structural Magnetic Resonance Imaging of the Adolescent Brain, 1021 ANNALS N.Y. ACAD. SCI. 83 (2004).

[9] Laurence Steinberg et al., Age Differences in Future Orientation and Delay Discounting, 80 CHILD. DEV. 28 (2009); Jennifer Woolard et al., Juveniles in Adult Correctional Settings: Legal Pathways and Developmental Considerations, 4 INT'L J. OF FORENSIC MENTAL HEALTH 1 (2005), available at http://www.policyarchive.org/handle/10207/bitstreams/20668.pdf; Deborah Laible et al., The Differential Relations of Parent and Peer Attachment to Adolescent Adjustment, 29 J. OF YOUTH & ADOLESCENCE 45(2000), available at http://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1050&context=psychfacpub ; David E. Arredondo, Principles of Child Development and Juvenile Justice Information for Decision-Makers, 5 J. CTR. FOR FAMILIES, CHILD & COURTS 127 (2004).

[10] American Academy of Pediatrics, Policy Statement: Health Care for Youth in the Juvenile Justice System, 128 PEDIATRICS 1219, 1223-24 (2011), available at http://pediatrics.aappublications.org/content/early/2011/11/22/peds.2011-1757.full.pdf (reviewing the literature on the prevalence of mental health problems among incarcerated youth); OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, NATURE AND RISK OF VICTIMIZATION: FINDINGS FROM THE SURVEY OF YOUTH IN RESIDENTIAL PLACEMENT 4 (June 2013), available at http://www.ojjdp.gov/pubs/240703.pdf (finding that 56 percent of youth in custody experience one or more types of victimization while in custody, including sexual assault, theft, robbery, and physical assault).

[11] Ctrs For Disease Control and Prevention, How Much Physical Activity do Children Need?, available at http://www.cdc.gov/physicalactivity /everyone/guidelines/children.html; Dep't Health and Human Services, Physical Activity Guidelines for Americans, http://www.health.gov/paguidelines/factsheetprof.aspx

THERE ARE BETTER SOLUTIONS

Alternatives to solitary confinement produce positive results and less damage to children. National best practices for managing youth uniformly include strict limitations on the duration of and procedures for placing youth in isolation.[12] The negative effects of the prolonged isolation of youth, whether intended to protect or punish, far outweigh any purported benefits. Indeed, despite its pervasive use and well known harms, prolonged isolation serves no correctional purpose. [13] There is no research to support the prolonged isolation of children as a therapeutic tool or to promote positive behavior. In fact, interactive treatment programs are more successful at reducing behavior problems and mental health problems in youth, while isolation provokes and worsens these problems.[14]

States are safely and successfully limiting the solitary confinement of juveniles in custody. Reports indicate that state juvenile justice agencies have implemented policy changes in recent years increasingly limiting isolation practices, with a majority of state agencies limiting isolation to a maximum of five days.[15] Six states— Alaska, Connecticut, Maine, Nevada, Oklahoma, and West Virginia—by statute have limited certain forms of isolation in juvenile detention facilities.[16] In some of these states,

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[12] See, e.g., AM. CORR. ASS'N, PERFORMANCE BASED STANDARDS JUVENILE CORR. FACILITIES (4th ed. 2009); PBS LEARNING INST., PBS GOALS, STANDARDS, OUTCOME MEASURES, EXPECTED PRACTICES AND PROCESSES (2007), available at http://sccounty01.co.santacruz.ca.us/prb/media%5CGoalsStandardsOutcome%20Measures.pdf; JUVENILE DETENTION ALTERNATIVES INITIATIVE (JDAI), A GUIDE TO JUVENILE DETENTION REFORM: JUVENILE DETENTION FACILITY ASSESSMENT 2014 UPDATE 177 (2014), available at http://www.aecf.org/m/resourcedoc/aecfjuvenileddetentionfacilityassessment-2014.pdf ("Staff never use room confinement for discipline, punishment, administrative convenience, retaliation, staffing shortages, or reasons other than a temporary response to behavior that threatens immediate harm to a youth or others."); DEP'T OF JUSTICE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, STANDARDS FOR THE ADMINISTRATION OF JUVENILE JUSTICE (1980), available at http://catalog.hathitrust.org/Record/000127687; NAT'L COMM. ON CORR. HEALTH CARE, STANDARDS FOR HEALTH SERVICES IN JUVENILE DETENTION AND CONFINEMENT FACILITIES standard Y-39 (1995), available at http://www.jdcap.org/SiteCollectionDocuments/Health%20Standards%20for%20Detention.pdf; AM. ACAD. OF CHILD & ADOLESCENT PSYCHIATRY, POLICY STATEMENTS: SOLITARY CONFINEMENT OF JUVENILE OFFENDERS, supra note 6.

[13] See, e.g., Linda M. Finke, RN, PhD, Use of Seclusion is not Evidence-Based Practice, J. CHILD & ADOLESCENT PSYCHIATRIC NURSING, (2001), available at http://www.findarticles.com/p/articles/mi_qa3892/is_200110/ai_n8993463/print; Steven H. Rosenbaum, Chief, Special Litigation Section, Remarks before the Fourteenth Annual National Juvenile Corrections and Detention Forum (May 16, 1999), available at http://www.usdoj.gov/crt/split/documents/juvspeech.htm.

[14] Simkins, supra note 6, at 257-58.

[15] PERFORMANCE-BASED STANDARDS, REDUCING ISOLATION AND ROOM CONFINEMENT 4-6 (Sept. 2012), available at http://pbstandards.org/uploads/documents/PbS_Reducing_Isolation_Room_Confinement_201209.pdf. The report states, "very few state agency policies permit extended isolation time for youths and the majority limit time to as little as three hours and a maximum of up to five days." Id. at 4.

[16] See Okla. Admin. Code, 377:35-11-4, Solitary Confinement (noting that solitary confinement of youth is a "serious and extreme measure to be imposed only in emergency situations"); W.V. Code §49-5-16a, Rules governing juvenile facilities (solitary confinement may not be used to punish a juvenile and except for sleeping hours, a juvenile may not be locked alone in a room unless that juvenile is "not amenable to reasonable direction and control."); but see W.V. Div. Juvenile Serv., Pol'y No. 330.00, Institutional Operations, at 9, available at http://www.wvdjs.state.wv.us/Portals/0/Files/330.00%20%20Resident%20Discipline.pdf (permitting up to ten days room confinement as a sanction for some offenses); Nev. Rev. Stat. § 62B (children may be subjected to "corrective room restriction" only if all other less-restrictive options have been exhausted and only for listed purposes, and no child may be locked alone in a room for longer than 72 hours); Alaska Delinquency Rule 13 (Oct. 15, 2012) (banning isolation of juveniles for "punitive" reasons, but defining "secure confinement" as permissible for "disciplinary" reasons and when there is a safety or security risk);

lawmakers have passed substantive bans on punitive isolation or on isolation for periods longer than 72 hours. In others, such as Nevada, strict reporting requirements have been implemented, to monitor the system-wide use of isolation. Meanwhile, other states have provided a model for systemic standards that eliminate the need for isolation. New York, for instance, has moved completely away from using isolation by implementing the "Sanctuary Model," which emphasizes trauma-informed care in lieu of punitive responses to youth misbehavior. [17]

CONCLUSION & RECOMMENDATION

Solitary confinement and isolation of children is psychologically and developmentally damaging and can result in long-term problems and even suicide. We commend the Council for moving to ensure that conditions in the juvenile justice system are effective and safe—and that they prioritize protection and rehabilitation.

The ACLU-DC would recommend adding a bi-annual reporting provision with regards to the "Improving Confinement of Juveniles Amendment Act of 2016" similar to that included in the State of Colorado's Bill 16-1328 concerning seclusion, which had bipartisan support and passed on May 10, 2016. [18] Such reporting to the Council should account, in aggregate, total number of incidents of room confinement, the average time in confinement per incident, summary of race, age and gender; summary of reasons/finding for confinements.

Conn. Gen. Stat. Ann. § 46b-133 (d)(5) (officials supervising children who have been arrested may not place "any child at any time" in "solitary confinement," but the statute does not define "solitary confinement"); Conn. Gen. Stat. Ann. § 17a-16(d)(1) (West 2014); Conn. Agencies Regs. § 17a-16-11 (2014) (for post-adjudication youth in Connecticut, the use of "seclusion" is governed by a statute and corresponding regulations requiring periodic authorizations and thirty-minute checks); Me. Rev. Stat. tit. 34-A § 3032 (5) (including segregation in the list of permissible punishments for adults, but not in the list for children; however, while state law prohibits "confinement to a cell" and "segregation" as punishment in juvenile correctional facilities, the state's rules permit "room restriction" for juveniles, even for minor rule violations). California, Texas, and New Hampshire have also recently considered legislation to limit or ban the solitary confinement of children, and Texas is conducting a full review of the practice. See 2013 Tex. Sess. Law Serv. Ch. 1184 (S.B. 1003) (West); Cal. S.B. 61 (2013); N.H. H.B. 480-FN (2013). For other state reforms, see, for example, Consent Decree, C.B., et al. v. Walnut Grove Corr. Facility, No. 3:10-cv-663 (S.D. Miss. 2012) (prohibiting solitary confinement of children); Settlement Agreement, Raistlen Katka v. Montana State Prison, No. BDV 2009-1163 (Apr. 12, 2012) (limiting the use of isolation and requiring special permission); Mo. Sup. Ct. Rule 129.04 app. A § 9.5-9.6 (2009) (placing limits on "room restriction" exceeding twenty-four hours).

[17] See Sanctuary Network, The Sanctuary Model, http://www.sanctuaryweb.com/TheSanctuaryModel/ComponentsoftheSanctuaryModel/SanctuaryNetwork/JuvenileJustice.aspx (last visited June 1, 2016) (providing links to resources on New York's implementation of the Sanctuary Model for juvenile justice).

[18] See Colorado Legislature Bill 16-1328, Section 6, 26-20-16 Documentation requirements for restraint and seclusion – adults and youth at http://www.leg.state.co.us/clics/clics2016a/csl.nsf/fsbillcont3/4BEB10D6836F19E287257F2400644E19?open&file=1328_enr.pdf.

DRAFT

Testimony by

Courtney Stewart
Founder CEO
The National Reentry Network for Returning Citizens, Inc.
And
Mentoring Works2, Inc.

Before the
Committee of the Judiciary
Bill 21-0683 the "Comprehensive Youth Justice Amendment Act of 2016"
Council of the District of Columbia
Kenyan McDuffie, Chairperson

Thursday June 2, 2016

Good Morning,

Council Member McDuffie, Staff, other members of the council and my fellows. My name is Courtney Stewart. I am the Founder and CEO of Mentoring Works2, Inc. (501(c3)) and The National Reentry Network for Returning Citizens. I work with both youth and the adult population. I'm here this morning in support of the "Comprehensive Youth Justice Amendment Act of 2016" and to talk about prevention/intervention, alternatives to prison and developmentally appropriate services. This bill brings joyful tears and emotions to my heart. In the early 1970's, I was committed at the age of 9 years old for behavior which was labeled then as "Beyond Control". Although I didn't commit a crime, I was placed with youth a lot older than me that had committed a crime. My situation got worse during my stay at Maple Glen in Laurel Maryland. I learned how to get high by lacing cigarettes with aspirin and then smoking it, taking a toilet paper roll and stuffing toilet paper inside it and spraying deodorant on it to inhale it and sniffing glue. I also learned about gang rapes, stabbings and all kinds of mischievous behaviors. I went from one institution to another, Cedar Knoll and then Oak Hill which you now affectionately call New Beginnings. I went in at 9 and didn't come out until I was 27, I grew up in these horrible places until I finally jumped off the merry go round. Punishing children in this way has proven not to work, it only creates a culture and an environment that is hostile, violent and repetitive. We need more intervention, prevention and alternative programs. Most of these young people like myself are left to fend for themselves which results in them (i.e., runaways, truant, delinquent, peer pressure, sexually active, gang involvement, drugs, body piercing,

tattoos, crimes and no respect for adults/authority and so on). These are the things that build their confidence and fuel their character, giving them a sense of independence, freedom and therefore, status among their peers and a false sense of security. They won't find out until they are much older and haven't done longer sentences in prison that this kind of independence is now a dependency issue (i.e., drugs, welfare, crime and that freedom they once felt is now bondage (bad habits, alienation, ignorance) and that sense of security is now anger and fear. Below is a report done by the **ACLU:**

A movement has taken hold nationally to undermine the juvenile justice system, and erase any distinction between young offenders and adult criminals. In the past two years, almost all 50 states have overhauled their juvenile justice laws, allowing more youths to be tried as adults and scrapping long-time protections to help rehabilitate delinquent kids and prevent future crimes.

On the federal level, members of Congress have proposed legislation designed to gut crime prevention programs and use the expiration of the Juvenile Justice and Delinquency Prevention Act of 1974 this September as an opportunity to dismantle the preventive and rehabilitative goals of the nation's juvenile justice system.

The juvenile justice system has its roots in the beginning of the century, when the mistreatment of juveniles became a focus of the Progressive Movement. By 1925, nearly every state had adopted laws providing for separate juvenile proceedings that centered on prevention and rehabilitation, rather than retribution and punishment.

Now federal and state lawmakers are rushing to turn the juvenile justice system completely upside down. If this backward trend isn't halted, the consequences will be disastrous -- not only for an entire generation of our nation's youth who will be condemned to prison, but for all of us who will be left with a more violent society.

The current debate over juvenile crime is being dominated by two voices: elected officials seizing on quick-fix solutions, and a media more intent on reporting violent crimes than successful prevention efforts. Below are some little-known, but basic facts on juvenile crime:

What Ever Happened to Prevention?

Crime prevention programs work and are cost-effective. They have been shown to reduce crime substantially when compared to imprisonment after crimes have been committed.

- The most comprehensive study done in this area recently concluded that crime prevention costs less than imprisonment. Early intervention programs that try to steer young people from wrongdoing -- modest graduation incentives, for example, or intense delinquent supervision -- can prevent as much as 250 crimes per $1 million spent. In contrast, the report said investing the same amount in prisons would prevent only 60 crimes a year. *(Greenwood, Peter, et al., Diverting Children from a Life of Crime, Measuring Costs and Benefits, RAND Corporation, (1996)).*

Dozens of crime prevention programs across the country have been held up as successful models. Recently, Connecticut commissioned the first state-wide evaluation of its alternative to sentencing program for juveniles. The report concluded that young offenders sentenced to alternative programs have a significantly lower rate of rearrest than juveniles sentenced to adult correctional facilities. *(Longitudinal Study: Alternatives to Incarceration Sentencing Evaluation, Year 2, Full Report, State of Connecticut, Judicial Branch, at 84, 89-91 (April 1996)).* Yet, we are spending more and more on corrections, and less on prevention efforts:

- Both California and Florida currently spend more on corrections than they spend on higher education. Other states are not far behind.
- Average cost of incarcerating a juvenile for one year is between $35,000 to $64,000. In contrast, the current cost of Head Start's intervention program is $4,300 per child a year, and the annual tuition cost of attending Harvard is under $30,000 per student.
- The combined local, state and federal budget to maintain the prison population was $24.9 billion in 1990 and reportedly reached $31.2 billion in 1992. The entire budget for the Office of Juvenile Justice and Delinquency Prevention (OJJDP), which coordinates the Federal response to juvenile crime, is $144 million. *(Bureau of Justice Statistics, 1990; "As Spending Soars, So Do the Profits," USA Today, Dec. 13, 1994).*

"Lock Em Up" Will Backfire

The most recent studies demonstrate that putting young offenders in adult prisons leads to more crime, higher prison costs, and increased violence.

- One study, comparing New York and New Jersey juvenile offenders, shows that the rearrest rate for children sentenced in juvenile court was 29% lower than the rearrest rate for juveniles sentenced in the adult criminal court. *(Jeffrey Fagan, The Comparative Advantage of Juvenile Versus Criminal Court Sanctions on Recidivism Among Adolescent Felony Offenders 1, 21, 27 (1996) (unpublished manuscript on file with the ACLU).*
- A recent Florida study compared the recidivism rate of juveniles who were transferred to criminal court versus those who were retained in the juvenile system, and concluded that juveniles who were transferred recidivated at a higher rate than the non-transfer group. Furthermore, the rate of re-offending in the transfer group was significantly higher than the non-transfer group, as was the likelihood that the transfer group would commit subsequent felony offenses. *(Donna M. Bishop et al., The Transfer of Juveniles to Criminal Court: Does It Make a Difference?, 42 Crime and Delinq. 171, 183 (1996).*

Incarcerating youth offenders in adult prisons also places juveniles in real danger.

- Children in adult institutions are 500% more likely to be sexually assaulted, 200% more likely to be beaten by staff, and 50% more likely to be attacked with a weapon than juveniles confined in a juvenile facility. *(Jeffrey Fagan et al., Youth in Prisons and Training Schools: Perceptions and Consequences of the Treatment-Custody Dichotomy, 40 Juv. & Fam. Ct. J. 1 (1989); Eisikovitz & Baizerman, Doin' Time: Violent Youth in a*

Juvenile Facility and in an Adult Prison, 6 J. Offender Counseling, Services & Rehabilitation 5 (1983).

Defusing the Myth of the "Ticking Teenage Time Bomb"

Predictions on juvenile crime are greatly exaggerated. While some headlines have irresponsibly suggested that a "ticking time bomb" of so-called "superpredator children" is waiting to explode, the studies show it is more a "cyclical time bulge."

- Crime level indicators show that the male "at risk" population (those ages 15-24) will rise over the next decade, but the levels are far from an "explosion." In fact, the levels are lower than those reached in 1980, when the "at risk" population last peaked. *(Austin & Cohen, Why are Crime Rates Declining An NCCD Briefing Report, National Council on Crime and Delinquency, March 1994).*
- From 1982 to 1992, the percentage of young people arrested for violent crimes increased by less than half of one percent. *(Synder & Sickmund, Juvenile Offenders and Victims: 1996 Update on Violence, OJJDP, Justice Department (Aug. 1995)).*

The public also holds greatly inflated perceptions about the prevalence and severity of juvenile crime.

- Only 6% of juveniles were arrested in 1994, the majority of whom only come in contact with the juvenile justice system once. And the overwhelming majority of those arrests have nothing to do with violence. *(Synder & Sickmund, Juvenile Offenders and Victims: A National Report, OJJDP, Justice Dept. (Aug. 1995)).*
- Contrary to public perception, the percentage of violent crimes committed by juveniles is low. According to one estimate, only 13% of violent crimes are committed by young people. *(Gallup Poll Monthly, Sept. 1994).*
- A recent government survey shows that less than half of one percent of juveniles commit the most serious violent crimes, rape and murder. In fact murders comprised of less than two-tenths of 1% of all juvenile arrests. *("Crime Time Bomb," U.S. News & World Report, March 25, 1996; Synder & Sickmund, Juvenile Offenders and Victims: 1996 Update on Violence, OJJDP, Justice Department (Aug. 1995).*

Thank you for your time and attention to this very important next step in our Juvenile Justice System.

Sincerely,
Courtney Stewart
Founder/CEO
The National Reentry Network for Returning Citizens

Maggie Riden, Executive Director, DC Alliance of Youth Advocates
Testimony to the Judiciary Committee
Public Hearing on the Comprehensive Youth Justice Amendment Act of 2016
June 2, 2016

Good afternoon Chairman McDuffie, committee members and council staff. My name is Maggie Riden and I'm here in my capacity as the Executive Director of the DC Alliance of Youth Advocates, a coalition of over 130 youth serving organizations here in the District to express our strong support of the "Comprehensive Youth Justice Amendment Act of 2016".

DCAYA stands in strong support for this bill for a multitude of reasons; but chief among them is the positive impact it will have on unaccompanied, runaway and homeless youth. As evidenced by the District's 2015 Homeless Youth Census; there is tremendous overlap between the runaway and homeless youth populations and DYRS or CSOSA involved young people.

Sub-Population	% reporting current or historic DYRS involvement	% reporting current or historic CSOSA involvement
Literally homeless unaccompanied youth	8%	15%
Literally homeless youth headed households	13%	15%
Housing insecure unaccompanied youth	20%	10%

Source: "Homeless Youth Census 2015: Findings and Analysis". The Community Partnership for the Prevention of Homelessness. Washington, DC. August 2015.

When we talk with young people about the causes that led to their homelessness it becomes clear that the criminal justice system is not an appropriate approach to resolving the factors that led them to run away or get pushed out of the home. By and large, these are youth who found themselves on the street as a result of persistent conflict with family; most troubling, of the 540 surveyed last August, 15% of youth reported being pushed out of the home due to conflict over the young person's sexual orientation or gender identity (SOGI). These are not criminal youth. These are young people in crisis. While this Bill does not specifically address the root causes, it at least ensures that the District doesn't treat the symptoms of these pervasive issues with harmful incarceration.

By reducing the use of secure detention for status offenders and PINS youth, this Bill allows us to continue re-orienting our response to young people in crisis. Moving away from a criminal justice approach toward tailored community based services that meet a youth and their family 'where they're at' and holistically address root causes. Approaching services and interventions via the social safety net system is a far more appropriate, and effective strategy to reducing juvenile crime and enhancing positive youth outcomes.

In fact, the District has already made progress in recognizing that this is a far better way to treat PINS youth and status offenders. Recent investments and the high utilization rates of both the PASS and ACE programs clearly demonstrate this trend. This legislation will continue that trajectory and solidify our commitment to serving these young people appropriately. As such, we encourage this committee to continue exploring opportunities to expand the capacity of these high performing interventions.

Finally, while outside the scope of this legislation, as a community we must also ensure consistent investments and increased access to preventive, upstream services. Positive youth development programming can go far in keeping children, youth and families stable and healthy so they don't encounter the juvenile justice or child welfare systems. Yet, at present, the District provides quality after school and summer programs to less than 6,000 students each year. Concurrently, access to mental health or other behavioral health services, while increased in recent years, remains an issue for thousands. Further, have much work to do in building strong lasting relationships between our families, schools and the social safety net that serves them. I encourage this committee to work collaboratively with partner stakeholders in the year to come to set a clear vision for how the District supports our young people; because I think we can all agree that investments in prevention are our best opportunity to truly reduce instances of youth crime or juvenile justice system involvement.

To conclude, as we work to develop and realize that vision; know that this legislation goes far in ensuring that in those instances where young people do encounter the juvenile justice system, they are treated with care, dignity and respect via a system that prioritizes rehabilitation and recovery. Again, we strongly support this bill and I'm happy to answer any questions you may have.

DCAYA

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June 2, 2016

Testimony in Support of B21-0683
"Comprehensive Youth Justice Amendment Act of 2016"

Good morning, all. Thank you for the opportunity to offer proponent testimony. My name is Crystal Carpenter. I grew up in the Bellevue area of Ward 8. In fact, one of my summer jobs came under the leadership of Councilwoman LaRuby May at the Gift Center, so being able to see how much she has accomplished in the past few years is absolutely amazing and definitely inspiring to me!

Over the past few months, there have been rapid changes across the country, resulting in various jurisdictions abandoning or decidedly moving away from sentencing individuals to die in prison for crimes they committed before reaching age eighteen. What has been disheartening to me is that here in the Nation's Capital, we are lagging behind in these efforts. That is why I am so excited about the "Comprehensive Youth Justice Amendment Act of 2016".

I come to you today not only as an advocate for changing the way juveniles are treated in the District of Columbia but as a sister of a juvenile who is serving a lifelong sentence for a crime he was sentenced for as a juvenile. This bill shows that the councilmembers are actively taking steps to show the young residents in our city that you are not defined by your mistakes but how you come out of it. It shows that we as stakeholders are not giving up on them. While I am excited about the legislation that is being proposed, my spirit is dampened by the lack of inclusion for youth that were incarcerated prior to this legislation (especially as it pertains to mandatory minimums). No one can rebut that the same reasoning that holds true for the youth today, hold true for the youth of yesterday, 10 years ago, 30 years ago, etc. So I want to charge you with taking this legislation a step further.

Our father, who served his adult years fighting for this country, died from a long battle of cancer due to Agent Orange when I was only seven years old. Our poor mother had lost her own mother (our grandmother), not even eight weeks prior to losing her husband, leaving her to rear small children alone as she battled depression and addictions of her own. Choosing not to disrupt our life as much as she could, our mother decided to keep us in our community, which ultimately was a mistake that she lived to regret. When I tell people about the community I grew

up in, it may come as no surprise that my brother, whom is only three years older than I am, has served his entire adult life in prison. Few understand, even fewer will be able to empathize with big of a role the environment we grew up in played in our lives. I grew up in Ward 8 in the 80s and 90s. As many of you already know, the Ward 8 of today is definitely different than the Ward 8 during that time (as is the case with the District of Columbia, in general). During my childhood years, the District of Columbia was deemed the "murder capital" of the United States. Gun violence and crack cocaine abuse ran rampant and the education system was failing us. In my community, having friends with a two-parent household was rare, as most of my friends' fathers was either incarcerated or deceased. And their mothers were either on drugs or working endless hours to put food on the table, leaving their children, with their idle minds at home to fend for themselves. It was not uncommon for young men and women to turn to drugs, as that was the norm and the same thing that many of their parents did. And if you had a few friends that made it to high school, let alone graduated, then you would consider yourself lucky. My brother never made it passed the eighth grade, and that was a lot farther than many of his friends and mine during that time. The obstacles that we as youth faced during those years in the District, undoubtedly set many of us on the trajectory to become a part of, what is deemed today as, "the school to prison pipeline".

My brother didn't have an easy life. Dealing with death became a regular occurrence in our community, so much so that by the age of fifteen my brother had already lost a handful of his friends to gun violence. My brother's arrest came not even 12 weeks following him having to bury our own mother, leaving us as orphans. And for the past 20 years he has been in the adult prison system.

Over the past 20 years, I have watched my brother grow up, both physically and mentally, within the confines of a prison wall. He is the reason why I sit before you today. He is the reason why I stayed on honor roll throughout high school. He is the reason why I went to and graduated from one of the top colleges in the nation. The man he is today is in no way the child he was 20 years ago. He sends my children book lists every month to read, he fills my inbox with inspirational quotes and keeps me abreast of world affairs. He not only challenges myself, but those around him in prison to do better. He even started his own book club in prison. I would challenge any of you to go visit him or even speak to him on the phone, you would definitely be awestruck by his wealth of knowledge. I am proud of the man that he has evolved into, and I think it is unfortunate that many of you are not able to see it first hand.

If you believe in the ability for young people to be rehabilitated, if you believe that our young people should not be sentenced to die in prison, I charge you with taking this legislation a step further and adding an amendment that will allow youths sentenced to lengthy prison terms to be able to go before a judge at the 15, 20 and 25 year mark to give them a reasonable chance of release.

I am not asking you to do anything out of the norm, but simply asking you to, as my mother would say, "practice what you preach". There are states across the nation that have taken steps to make sure that juveniles are offered a reasonable chance to turn their life around. And I am sure that you wouldn't want to send the message that a teenager in Wyoming, has a better ability to be rehabilitated than those that live under the laws that you provide for the residents in the District of Columbia.

Due to the mandatory minimums imposed, my brother is not even parole eligible until he is 70 years old. 70 years old! Ask yourself if you were 17 and not set to go before a parole board until you turned 70, how would you spend your time? How is a seventy year old man/woman supposed to compete in a world that they have been removed from for over a half a century? When you are given such time, you are not even eligible for certain programs that teach you trades. It is hard enough to compete in this world outside of the prison walls, so how could they possibly obtain a job at that point? You are not encouraged to get your GED or do things to help you when you are released. So in essence, the children in the system are being victimized over and over and over again by systems that have failed them throughout their lives.

With that in mind, I humbly ask that you give those that have made poor decisions something to work towards. Give them a reason to seek redemption. Give them an incentive to learn trades and get their HS diplomas (things that my brother has done on his own), to read books and to stay out of trouble while they are in prison. Be the change that most of you campaign about and speak of in the communities. Show them that if they work hard, and do the right thing that you believe that they can turn their life around and have a promising future. Thank you for your time and I would be happy to answer any questions that you may have.

Subject: Letter on behalf of Marion James Crawford and B21-0683 "Comprehensive Youth Justice Amendment Act 2016 Bill"

From: Evelyn Johnson (streetermills@yahoo.com)

To: streetermills@yahoo.com;

Date: Thursday, May 26, 2016 5:50 PM

Letter on Behalf of Marion James Crawford and B21-0683 "Comprehensive Youth Justice Act Bill 2016"

Hello my name is Evelyn Streeter Johnson. I'm writing to you on behalf of my Son Marion James Crawford and to Support B21-0683 "Comprehensive Youth Justice Amendment Act 2016". My Son has been Incarcerated Since He Was 16 yrs. old. He Is 36 yrs. old now. He is Serving A De Facto Life Sentence. He Has Been Serving A 35 To Life Mandatory 30 yrs To Life Sentence Since 1996. He Was A Juvenile and Has Grown Into Adulthood As A Man now. He has become a more Intelligent, Productive, but Humble Human Being now. He now has his G.E.D. He is an Experienced skilled Leather Craftsman who Graduated from The Advanced Leather Program, with over 10 yrs. Experience in Creating Purses, Briefcases, Backpacks, etc. He is also in Glenville State College With An G.P.A. of 3.67. He also has a Business Plan To Help Put His Goals Into Action. He has Made The Best Out Of A Bad Situation Which Is Amazingly Remarkable Considering His Situation. He has made the System work for him by Rehabilitating His Mind into a More Productive Individual by Bettering Himself. I Know He Has Changed. I Am Very Proud of The Man He Has Become. I Know He Will Help Make Society A Better Place and For The World We Live In. He Can Tell His Story Hoping It Will Help Someone Not To Make The Same Mistake He Has Made. I Talk to My Son As Much As Possible. And He Talks about Wanting To Excel and Succeed In Life By Opening His Own Entreprenuer Leathershop Business. He Wants To Give Back By Helping To Teach Others such As "At Risk Youth". My Son Always say "If I Can Do It So Can You By Making A Difference and Make A Change" That's What He Says All The Time. "Momma I Want To Work And Take Care Of Myself and My Family" He Wants a Wife and 2 Children.

Although it hasn't been easy being that his Brother Sabino 28 yrs. old and Sister Octavia 22 yrs. old had to grow up with him being absent from their lives. I also have endured a lot of pain with this Nightmare. I have been Praying for his Safe Return Home to be with his Family. My Son and his Siblings have Lost Their Fathers Before and After this Terrible Mistake. My children Have Suffered A Lot with Not Having their Father Around. I was a Single Mother Trying To Raise Him The Best I Could. Although I Wish I Could Have Done Better At That Time. I Was 34 yrs. old When All This Happened. 20 yrs. Has Past. Now I'm 54 yrs. old. I Too Have Become A Better Person and Mother.

My son was 12 yrs. old when he Lost His Father and That was Very Devastating to Him. But Now He Has Overcame That Lost. And He has Turned All His Negatives Into Positives. I Know He Deserves A Second Chance At Life. I Love Him and Pray For Him To Come Home To Be With His Family and Friends. With That In Mind I Do So Support The B21-0683 Bill on behalf of All The Juveniles. We All Make Mistakes. Some Are Just Worse Than Others. We All Fall Short But We Must Get Back Up Again. With That Being Said I Hope That All Of You Can Find It In Your Hearts To Give Him A Second Chance and All The Others Trying To Do Better In This Situation A Second Chance. I Pray. I Also Would Like To Thank You for your Time and Attention with Reading My Letter and Most Of All Your Help. God Bless.

Thank You Very Much,

Evelyn Streeter Johnson

Subject: Fwd: A Letter From Marion James Crawford mcrawford7007@emailinterface.org

From: Octavia Wilson (octaviawilson1@aol.com)

To: streetermills@yahoo.com;

Date: Thursday, May 26, 2016 9:06 PM

Octavia Wilson
octaviawilson1@aol.com

----Original Message----
From: Octavia Wilson <octaviawilson1@aol.com>
To: dwade <dwade@dccouncil.com>; dwade <dwade@dccouncil.us>; pmendelson <pmendelson@dccouncil.us>
Sent: Thu, May 26, 2016 8:58 pm
Subject: A Letter From Marion James Crawford mcrawford7007@emailinterface.org

Hello Everyone,

This is Marion James Crawford, Case number 1997- fel - 266. I'm 36 years old I have been in the penitentiary since I was 16 years old, for a crime I'm extremely ashamed of (First Degree Murder) which derived me from effecting my community with illegal drugs. To be perfectly honest with you I did not feel any remorse or shame until I was in my early 20's. I was at Sussex 2 State Prison on lock down for 24 hours a day. I had a older cell mate for almost two years, he told me what I needed to hear. He said "Marion the crime you committed and the drugs you sold to your community was something you did but it's not who you truly are, and the proof is no child is born corrupt they become corrupt." "No parent encourages their kids to commit crimes against their community, with that being said when you was younger you had dreams of being a fireman which is more proof that you became corrupt." "Firemen are selfless, brave,and most of all he helps and contributes to society. The things you did is the total opposite of the dreams you had sense you was 6 years old, somewhere along the way you tricked your mind into believing what you was doing was okay", which I agree with them. I thought my criminal behavior was okay. He said "You can still be that fireman some day Marion", with a smile on his face. That's when I looked at him with a confused look on my face, I said "Anthony that's impossible, I'm going to die in prison." He said "Being selfless, brave and most importantly of all helping people, you still can be all them things one day. You just have to make a conscious effort to give up your criminal thinking and behavior on a daily basis." My cell mate helped me change my life more than he will ever know. He introduced me to educational .T.V shows, Books, and The Art of Leather Crafting when we both was transferred to USP Lee County. At this point in my life, I'm more Informed, Intelligent, and fully understand the purpose of Law and Order, because without it there is NO civilization. You can not have one without the other, what we will have is a world of Chaos and that is Unacceptable. As human beings we are better than that, with that being said, I'm truly sorry for breaking our laws and contributing to the destruction of our community. I swear on my mother (Evelyn Johnson's) health and happiness, that I will continue to do the right thing and hold myself to a higher standard. You saved me once, now I ask that you save me twice, and don't forget about the juvenile's who have been enduring this great punishment, serving 35 years to life, 30 mandatory life sentences, and as for myself, I learned my lesson the hard way, but never the less I learned.

Thank you for your time and

patience,

Marion James Crawford FBOP

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BILL 21-0683 COMPREHENSIVE YOUTH JUSTICE AMENDMENT ACT OF 2016
DISTRICT OF COLUMBIA COUNCIL, COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY
June 2, 2016

Written Testimony of: Emily MacLeod, Legal Fellow
D.C. Prisoners' Project,
Washington Lawyers' Committee for Civil Rights and Urban Affairs

Thank you very much for the opportunity to testify today. The Washington Lawyers' Committee for Civil Rights and Urban Affairs was founded in 1968 to address poverty and discrimination by mobilizing the pro bono resources of volunteer lawyers and law firms. Among the areas that the WLC works on are criminal justice problems, including prison and jail issues through the DC Prisoners' Project.

The mission of the DC Prisoners' Project is to advocate for the humane treatment and dignity of all persons convicted of or charged with a criminal offense under DC law, whether in prisons, jails or community corrections programs; to assist their family members with prison-related issues; and to promote progressive criminal justice reform. In addition to litigation and related advocacy work, the Project has undertaken, with the cooperation of law firms, a series of reports on DC criminal justice issues.

I am here today to express our support for the Comprehensive Youth Justice Amendment Act of 2016, which we believe is an important step in improving conditions for system-involved people in the District. Based on our experience working with incarcerated D.C. residents, we find several provisions particularly important.

KEEPS JUVENILES OUT OF ADULT FACILITIES

The Washington Lawyers' Committee supports keeping youth out of adult facilities and removing them from any such facilities As detailed in our report, *D.C. Prisoners: Conditions of Confinement*, the Central Treatment facility, where an average of 16 boys are held, is an inadequate space for youth. There is insufficient space for education, recreation, and programing. Such programing is critical for helping to ensure that problems do not carry over into adulthood, and that they are best equipped to succeed when they re-enter their communities. In addition, children housed in adult facilities are more likely to experience segregated housing, as space for juveniles is limited. By removing children from adult facilities like CTF, the District can ensure that they are housed in facilities that are appropriate for their unique needs.

RESTRICTS SOLITARY CONFINEMENT

The Bill, if enacted, would reduce the use of solitary confinement for youth detained in the District. In our *Conditions* report, we documented the excessive use of segregation for youth at CTF, and a lack of a clear policy with respect to its use. As detailed in our report, segregation has a harmful impact on young people's mental health, physical health, and their development, and young people are particularly in danger of adverse reactions to isolation. We are encouraged by the Act's prohibition of room confinement for youth as a method of punishment.

REDUCES INCARCERATION

We support the measures this bill takes to reduce the use of incarceration by eliminating life without parole for juveniles, eliminating mandatory minimums for youth charged as adults, limiting pretrial detention, and implementing alternatives to incarceration such as mediation. We believe that with the implementation of these provisions, D.C. can serve as a model system that prioritizes rehabilitation over punishment.

CONCLUSION

The Washington Lawyers' Committee urges this committee, and the District of Columbia, to be at the forefront of the movement concerning incarcerated and reentering populations. We believe that this Act will not only protect our city's children, but will result in a safer D.C. for everyone. We thank you for giving your time and attention to issues facing incarcerated D.C. residents and their families.

SCHOOL JUSTICE PROJECT

Access to Justice. Access to Education.

Testimony of Sarah Comeau
Director of Programs & Co-Founder, School Justice Project
D.C. Council Committee on the Judiciary
Judiciary Public Hearing on B21-0683:
"Comprehensive Youth Justice Amendment Act of 2016"
June 2, 2016

My name is Sarah Comeau. I am the Director of Programs and Co-Founder of School Justice Project, a D.C.-based legal services and advocacy organization serving older students with special education needs involved in D.C's justice systems. Thank you for introducing the Comprehensive Youth Justice Amendment Act of 2016 (CYJAA).[1] I am grateful for the opportunity to testify today on this important legislation. The transfer of youth to juvenile facilities will better help ensure that they have access to federally and District guaranteed critical special education services.

As a special education lawyer for court-involved youth aged 17-22, I have seen the effects of incarceration and periods of detention on the development of our city's young people through a curtailing of access to critical (and legally protected) rights and services, such as education and transition supports. I see many challenges preventing these youth from successfully transitioning from adolescence to independent adulthood. Many of these challenges stem from transience and service disruption due to periods of incarceration in facilities ill-equipped to meet the needs of this population. Additionally, many of the older juvenile justice system-involved youth age out of the system with dislocated services and few credits towards graduation. They return to their communities to find a service desert. Given factors such as age, disability, school requirements, and timing in the school year, these students have difficulty re-enrolling in traditional public schools upon their return. As a result, this population of students with disabilities remains largely unaccounted for and under-resourced. Just as these students find themselves at the margins of the reform movements, rehabilitative or reentry programming, and unrepresented in the data collection, they lack access to special education legal counsel. The result is a "second pipeline" funneling these older students at the deepest end of the juvenile justice system directly into the criminal justice system.

SJP aims to address this often-obscured crisis using the law. SJP protects and advocates for the legal rights of all students with disabilities and works with students to access and enforce these rights. We aim for equity by focusing on equal access under the law. The core theme is the simple idea that when students have access to the education and transition supports they need, they will be able to successfully transition to adulthood. Through access to legal counsel, students – whether incarcerated or in the community – will be able to access their rights and, in turn, a quality education.

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[1] "B21-0683 - Comprehensive Youth Justice Amendment Act of 2016," *District of Columbia Legislative Information System*, April 5, 2016, http://lims.dccouncil.us/Legislation/B21-0683.

Through our work with older, court-involved students, we have seen a significant pattern: Education disruption due to periods of transience because of secure detention or incarceration has led to poor education outcomes and, ultimately, future court contact. When placed in adult jails or prisons, such as D.C. Jail or the Correctional Treatment Facility, students rarely receive the education they are entitled to. Facility schools are not always full-time programs and are often understaffed. For example, the school that youth charged as adults attend when incarcerated in the Correctional Treatment Facility went months this School Year without having a counselor. This holds true even though students with disabilities are entitled to access special education and related services regardless of placement.

Lack of education continuity and lack of appropriate and quality education and special education has a profound effect on the individual and will most likely lead to drop out and a future of unemployment and recidivism. We support this legislation because it has the potential to give students access to special education services by transferring juveniles charged as adults to juvenile facilities. Unlike in adult facilities, in juvenile facilities there is more often a continuum of education programs and services including counseling and reentry services.

I am not saying that the juvenile system is perfect, but with legislation that aims to ensure that students can access critical services and supports, we are moving closer toward a fairer justice system. Transition outcomes for youth involved in the juvenile justice system can be improved with education continuity and access.[2] Ensuring placement in juvenile facilities is one step toward ensuring that each District resident has access to critical, guaranteed special education. An emphasis on community-based placements and the use of secure detention as a last resort will allow students to access critical education services and supports and help to prevent their entrance into the adult criminal justice system.

If there is one thing that you take from my testimony, the population affected is not insignificant. D.Y.R.S. reported this year that over 80% of committed youth have Individualized Education Programs (IEPs) or special education needs and over 90% of committed youth have been diagnosed with either an Axis I or II diagnose.[3] This legislation will assist in dismantling a major barrier that prevents so many students from having a meaningful chance at successful reentry.

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[2] *See* National Collaboration on Workforce & Disability for Youth Institute for Educational Leadership, *Making the Right Turn: A Guide About Improving Transition Outcomes for Youth Involved in the Juvenile Corrections System* (2008).

[3] *See* Department of Youth Rehabilitation Services, Council of the District of Columbia, Committee on the Judiciary, Performance Oversight Hearing, Pre-Hearing Questions and Answers, Tracking Youth Success, Question 2d., *available here* http://dccouncil.us/files/user_uploads/budget_responses/TrackingYouthSuccess_1234578.pdf.

Fraternal Order of Police
Department of Youth Rehabilitation Services
Labor Committee

TESTIMONY OF ANDRE PHILLIPS, CHAIRMAN OF THE FRATERNAL ORDER OF POLICE DEPARTMENT OF YOUTH REHABILITATION SERVICES LABOR COMMITTEE

before the

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON THE JUDICIARY

"COMPREHENSIVE YOUTH JUSTICE AMENDMENT ACT OF 2016"

June 2, 2016

Members of the Committee on the Judiciary, my name is Andre Phillips and I am the Chairman of the Fraternal Order of Police Department of Youth Rehabilitation Services Labor Committee ("FOP DYRS" or "Union"). FOP DYRS represents approximately 250 employees of the Department of Youth Rehabilitation Services ("DYRS"), primarily in the job classification of Youth Development Representatives ("YDR"). We are the employees who deal every day and night with the youth who are in the custody and care of DYRS. On behalf of these employees, I come today to testify against the proposed legislation referred to as the "Comprehensive Youth Justice Amendment Act of 2016".

The proposed legislation would put in place certain changes that, though undoubtedly well intentioned, would have an extremely negative impact on the youth we serve and on my members' ability to effectively do the best job they can of promoting a

holistic approach to rehabilitation and supporting the prevention of career criminal behavior.

A major area of concern of the Union's with the proposed legislation is the provision that would transfer individuals under the age of 18 who have been charged as adults to juvenile facilities from where they are currently held at the District's Correctional Treatment Facility ("CTF"). I can speak to this issue because I and my members have experience with juveniles who have been charged as adults, but who have returned to DYRS for short periods because of an outstanding obligation to DYRS under the terms of their commitment. Based on this experience, I can tell you that changing the law to routinely transfer juveniles charged as adults to DYRS would be a bad mistake.

In order for a person under the age of 18 to be charged as an adult, the Office of the Attorney General must persuade the court that it is in the interest of the public welfare and the protection of public security that the youth be charged as an adult and that there are no reasonable prospects for rehabilitation as a child. This is not a simple determination, but one that requires the court to consider a number of factors including the youth's age; the nature of the present offense and the extent and nature of the youth's prior delinquency record; the youth's mental condition; and the youth's response to past treatment efforts including whether he or she has absconded from the legal custody of the Mayor or a juvenile institution. If a court has reviewed all the evidence particular to that individual and has

determined that he or she should be charged as an adult, it means that a juvenile facility is not the right place for that person.

The vast majority of the youth who are charged as adults have already come through the DYRS program at least once, but nevertheless, returned to the community to commit new offenses. In a sense, by charging them as an adult, the court has made a determination that they have graduated to a level that DYRS, as a juvenile facility, is not equipped to manage. They are often more violent and combative, less interested in rehabilitation, and suffering from different and greater mental health problems than DYRS is equipped to deal with. They typically act out and behave in a way that requires greater restriction and supervision than DYRS is designed or able to provide. These individuals do not have a foreseeable future that is not behind bars. This is the opposite of what DYRS is programmed to handle because our mission is to rehabilitate and release our residents as soon as is practicable.

The Department of Corrections ("DOC") is more and better equipped to deal with the type of population comprised of violent offenders who, though not adults, must be charged as such. DOC is authorized to use physical restraint techniques and equipment to subdue violent behavior. By contrast, DYRS' entire focus is on de-escalation and very limited use of restraint or force. Without the ability to address these more violent residents, those who have already had contact with the adult system pose a substantial threat to the

rest of the juvenile population at DYRS' facilities, not to mention the staff who are not trained, equipped, or authorized to adequately deal with these behaviors.

DYRS has two primary secure facilities for housing its juvenile population. There are already serious issues of overcrowding; yet this proposed legislation would increase the population by an additional fifty percent. The Youth Service Center is an 88-bed fortified facility that currently houses 101 juveniles. New Beginnings is a 60-bed residential treatment campus, which is slated to become a co-ed facility, thereby increasing its population. It would be dangerous to the current residents to transfer in additional individuals who have been charged as adults. Where are these people supposed to go? Logistically, there would be no way to segregate this new population; but often by definition, these individuals were charged as adults because they have not succeeded in the juvenile environment in the past. Further, they were charged as adults because the model of rehabilitation focusing on less restrictive supervision and aiming toward a productive return to the community was deemed inappropriate.

History has proven that increases in the resident population beyond the applicable threshold leads to an increase of violent incidents and a decrease in services. Not only would this pose an imminent danger to the existing residents and staff; it would impact DYRS' ability to comply with the *Jerry M.* decree. The Agency has struggled under the oversight resulting from this litigation for years and is poised to regain its independence.

This new legislation could undo the progress that DYRS has made to free itself from the court's oversight resulting from this decades-old class action lawsuit.

Further, those youth who find themselves charged as adults and who have had contact with the adult system tend to have a better mastery of manipulating the system, those who are responsible for their supervision, and their fellow offenders. They are also highly influential among their age-group peers. We do not want to encourage these types of role models in the juvenile population. The possibility of a lengthy adult sentence is an entirely different future and set of expectations than exist for our current population. The attitudes and behaviors that accompany this future view are not consistent with what we are trying to foster in the rest of our population. Put simply, the individuals who are charged as adults behave as if they have nothing to lose. That is the opposite attitude of what we are trying to instill in the rest of our population.

Another important problem is that, at present, DYRS does not have the mental health staff needed to serve its current population. An influx of new residents who have been charged as adults would further strain those mental health resources that are already near a breaking point. As I already mentioned, these individuals who the legislation would aim to transfer to youth facilities come with a host of problems that exceed those of the current population and that include mental health problems. Sending these people to DYRS is not going to help them get services that they could not otherwise get. There are, however,

other institutions within the District's network that can provide these services. For example, the Psychiatric Institute of Washington and United Medical Health Center both house adolescents and adults and provide psychiatric treatment while an individual has criminal charges pending. There is no reason that these services could not be available to youths charged as adults while they are housed in CTF. Perhaps an even better suggestion is that more juvenile services be developed and implemented for youth housed at CTF.

For these reasons, the Union is strongly opposed to the provisions in the proposed legislation that would transfer youths who have been charged as adults into DYRS. DYRS is not equipped to handle these offenders and their presence would pose a real threat to the safety and security of the current residents and would undermine the focus of rehabilitation and reduced supervision of juvenile offenders.

Another area of concern that my members and I share with regard to the proposed legislation is the attempt to restrict the use of room confinement of juveniles and to ban the disciplinary segregation of youth. Room confinements are by no means a cruel form of intervention. They are nothing more than time-outs that are used when residents are a threat to others, displaying aggressive behavior, or are a disruption to the milieu. A resident may be behind a closed door, but during the room confinement they interact with staff and other residents on a regular basis (at least every fifteen minutes during regular check-ins). This is

by no means akin to solitary confinement. Limiting the use of this important and effective de-escalation tool would be a mistake.

Similarly, we oppose the proposal to completely ban any disciplinary segregation of our youth. Secured, supervised confinement or segregation based on sanctions is used only as an extreme consequence for very high level infractions. It is not imposed lightly, but only after a substantiated finding of major rule violations such as assault on staff or fellow residents or destruction of property. This type of confinement is also not as bad as critics might suggest. It is no more severe than a parent grounding a child to his or her room. Without the possibility of supervised confinement available as a consequence, DYRS staff would be stripped of any realistic disciplinary option for the most serious violations of the rules. If the youth know that there is no possibility of meaningful discipline, there is far less incentive to refrain from violent behavior such as assault and destruction of property.

Based on the foregoing considerations and experience of those of us on the ground who know how things operate in reality, the Union respectfully asks the Council to reconsider these proposed changes that we sincerely believe would do far more harm than good. The newly proposed changes would be rash and ill-advised and have lead the Union to question whether any youth correctional experts were consulted in the creation of this bill. I, as the Chairperson of the FOP DYRS Labor Committee would be more than willing to assist the Council in further exploring the perspective of a subject matter expert in the

direct care of youth in a secure setting. This is not a one-dimensional or simple problem. The Council should not make these changes at all, and most certainly should not even contemplate such changes without the benefit of the expertise of those who know what problems are involved.

Thank you for your time and attention to my testimony and to the concerns I raise on behalf of FOP DYRS.

Andre Phillips, Chairman
Fraternal Order of Police Department of
Youth Rehabilitation Services
Labor Committee

Margot Dankner
Pro Bono Coordinating Attorney
Kids in Need of Defense (KIND)

Testimony in Support of the Comprehensive Youth Justice Amendment Act of 2016

Chairman McDuffie and members of the Committee on the Judiciary, my name is Margot Dankner, and I appreciate the opportunity to testify on behalf of Kids in Need of Defense (KIND) and to submit our views on the Comprehensive Youth Justice Amendment Act of 2016 for this hearing. In particular, the provision of the Act that would allow the DC Superior Court to make findings for Special Immigrant Juvenile Status until a child reaches the age of 21, would have a tremendous positive impact on many of the children that KIND works with.

KIND was founded by the Microsoft Corporation and UNHCR Special Envoy Angelina Jolie in 2008 to ensure that unaccompanied immigrant and refugee children are provided pro bono legal representation in their immigration proceedings. KIND has assisted more than 9,000 children and trained over 13,000 volunteer attorneys in our eight years of operation.

We also promote greater protection of unaccompanied children in Central America and Mexico through assistance to children returning to their countries of origin, the provision of guidance to children applying for resettlement to the U.S., and evaluation of the prevalence and response to sexual and gender based violence against child migrants, particularly girls. This work gives us a comprehensive understanding of the urgent protection needs of children on the move throughout the region.

Unaccompanied children, who range in age from toddlers to teenagers, are uniquely vulnerable, having traveled hundreds or thousands of miles without a parent or legal guardian, risking a life-threatening journey to a country they do not know, most often to escape violence or abuse. Many of the children referred to KIND describe years of severe domestic abuse, abandonment, or the loss of a caretaker. Child welfare systems in Central America, from where the large majority of these children come, are weak or nearly non-existent, leaving the children with no safety net or way to find safety or protection within their communities.

Special Immigrant Juvenile Status (SIJS) is a form of humanitarian protection for children under 21 who have suffered abuse, neglect, or abandonment by a parent to qualify for lawful immigration status so that they may remain safely in the United States.

To qualify for SIJS, the child must have an order from a state juvenile court demonstrating several elements: that she is dependent on the court, that she cannot be safely reunited with one or both parents due to abuse, abandonment or neglect, and that it is not in her best interest to return to her home country. Congress entrusted state juvenile courts with the task of making this initial determination because state juvenile courts are experts in the best

interest of the child standard, as well as in abuse and neglect law. This initial determination from the state court does not, however, give the child any immigration status. It is simply a finding of fact in support of the child's eligibility for SIJS. The information contained in the state court order is just one of the factors taken into consideration by U.S. Citizenship and Immigration Services as to whether or not to grant status to the child.

Federal law allows children under the age of 21 to qualify for SIJS, but unfortunately many potential beneficiaries between the ages of 18 and 21 are left out. State court jurisdiction ends at the age of 18 for most children, so they cannot obtain the necessary court order to apply. As a result, many children who otherwise qualify for this form of relief are not able to access it.

Our office sees many children in need of protection who fall into this category; however, I will leave you with the story of one client who, despite turning 18, was able to obtain SIJS because of a new law in Maryland that allowed juvenile courts to issue SIJS orders for children up to 21. Maria* was abandoned by her father at a young age and raped multiple times by gang members in El Salvador. At the age of 16, seeing no other option, she fled to the United States. Because of scheduling delays in juvenile court outside of her control, her case was not heard until well after her 18th birthday. However, because Maryland approved a provision expanding access to SIJS to 21 in reflection of the federal statute, she was still able to access this benefit that she desperately needed. Our hope is that the council will approve this bill so that others like Maria will be able to access the protection of SIJS.

Thank you for the opportunity to testify before you today, and for your commitment to justice for the children in our community.

**Name changed to protect privacy.*

Testimony for D.C. Council Judiciary Committee Hearing on

The Comprehensive Youth Justice Amendment Act of 2016

Smita Dazzo, Immigration attorney with Catholic Charities of the Archdiocese of Washington

Good Morning/Afternoon, distinguished council members,

My name is Smita Rao Dazzo. I am an immigration attorney at Catholic Charities of D.C. I am here today to discuss my professional experience with the difficulties that a custodian/minor child might have in being able to obtain a custody order before the age of 18.

Most of the kids that we help come to the United States as unaccompanied minors, which means that they entered the United States before the age of 18. Unaccompanied children apprehended by the DHS immigration officials are transferred to the custody of the Office of Refugee Resettlement and placed in an Immigration Detention center for children. At this time, the children receive a notice that they are in deportation proceedings, although many don't actually receive a court date for several months. In many cases, a child could get shuffled around to multiple centers before being reunited with family. On average, most children spend at least one month in detention.

Even once a child has been reunified with a sponsor, we've seen in a large number of cases, that there can often be problems which require the child to find a new home. Either the original sponsor can't afford to keep the child or may just choose not to, especially if the custodian is not a close relative. In D.C. something that we see somewhat frequently is people getting displaced from their housing because they've added a new household member without informing their landlord. This might mean that they all move or that they have to find a new home for the child. It's possible that it could be several months after arrival in the United States that a child is actually settled in a home where someone chooses to be his/her custodian.

Once a child has entered the household, a custodian has to provide clothing, lodging, enroll him/her in school, which sometimes also involves getting additional vaccines and/or health insurance. There are a lot of expenses involved before a custodian can even consider the additional expense of meeting with an attorney. There are many households in which the families *never* seek legal assistance, or they do it very late in the process. At some time after the children settle with their sponsors, most receive notices to appear in Immigration court. Many custodians are undocumented themselves and worry about the repercussions for them and for the children if the children attend immigration court proceedings. For this reason, many do not even seek out consultations and do not learn that this benefit exists. Or, what is even worse is often when they do come to see us, after spending time getting settled in the United States, they have already aged out of this benefit and we cannot help them.

There are limited organizations in the D.C. that provide legal assistance in these cases. Many of our clients come from poor families who cannot afford a private attorney and rely on pro or low bono services. There are also other clients that diligently seek legal assistance soon after arriving in D.C. yet are placed on waiting lists for pro bono attorneys or even waiting lists to pay for legal services. The truth is, there are more kids that are eligible for this benefit and need our help than there are low cost legal service providers that can help them right away.

Another important thing to understand about these kids is that many of them have experienced a high level of trauma. These are children who, by definition, have been abused, abandoned or neglected, by either one or both of their parents. We've seen kids as young as 6 or 7 that have been severely physically, sexually or emotionally abused. I had a client whose mother left home when he was 5 years old. He got home from school to an empty house and sat there crying and starving for 2 days before his grandmother found him. When these kids get to the U.S., many of them don't disclose what they've been through. They may not want to tell their nonabusive parent or their aunt or cousin what happened to them in their home country because they are embarrassed or ashamed, or maybe just because they want to start fresh here. The child might also be loathe to explain what they've been through to a lawyer. Often when we work with children, we allow for many different appointments to get to know the child, gain their trust, and to get a full understanding of what happened to them before we even file anything in court.

Once we file, the entire court process also takes a good amount of time. After filing, we are required to process service to the child's parents' or other parent. If we know their whereabouts, then we have to either mail the summons and copy of the complaint, or we have to find someone to physically serve the defendant either here in the United States or in the home country. If we do not know where the other parent is, we have to file a request for alternate service, which is only publication in custody cases. These requires us to file a motion with the court, wait for a decision, then send a notice of publication to a newspaper in D.C. or in the home country, publish for three weeks, and then wait for the allotted time to file a default request. Especially for children that have been abandoned, this is a route that we often have to take and adds a lot of additional time to the process. Only once service is complete are we granted a status hearing at D.C. Superior Court where custody can be granted.

Most of these kids enter the United States before the age of 18 but, as you have heard just now, there are many, many reasons why it might be impossible for a person to obtain custody of one of these special immigrant juveniles before the age of 18. All of these hurdles and obstacles are reasons why we are here today to advocate for children up to the age of 21 to be eligible for special immigrant juvenile status in the District of Columbia.

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June 2, 2016

To: Members of the Committee on the Judiciary

From: Christina Wilkes, Esq., Grossman Law, LLC

Re: Strengthening Youth Services and Rehabilitation Amendment Act of 2016

Position: **SUPPORT**

Chairman McDuffie and members of the Committee on the Judiciary, my name is Christina Wilkes and I am an immigration attorney licensed in both DC and Maryland. Over the past twelve (12) years I have represented over 500 unaccompanied immigrant children before the DC Superior Court, Maryland Circuit Courts, and US Immigration Courts, I have provided training and mentorship to hundreds of *pro bono* attorneys, and have conducted over 50 workshops for Judges, child welfare workers, educators, law enforcement officials, and others on children's immigration issues. In that time, I have seen clients overcome abuse, abandonment, and neglect to graduate from high school, and obtain Associate's and even Bachelor's degrees. Amongst them are licensed tradesmen, auto mechanics, health care providers, cosmetologists, airline representatives, and social workers, to name a few. Many have mastered English and some have even become US citizens.

The springboard that has enabled these young people to achieve success is a federal law known as Special Immigrant Juvenile Status or SIJS. SIJS protects vulnerable children and youth who would otherwise be deported to their home countries by creating a path to Lawful Permanent Resident (LPR) status or a "green card." Without this vital law, innocent children who have been abused, neglected or abandoned by one or both of their parents would be left without recourse. Instead, they have a chance to fully incorporate and contribute to our nation.

In order to be able to apply for SIJS, *first* a DC Superior Court Judge in the context of Custody or certain other proceedings must make factual findings that are a prerequisite to making an application. The DC Superior Court regularly makes these findings in cases of children under 18. Although federal Immigration law permits vulnerable immigrant children to apply for protection through SIJS up until the age of 21, the DC Code currently prevents the Superior Court from making the necessary factual findings for youth between ages 18-21. So DC law is more restrictive than federal law and unreasonably so. The Bill currently before you for consideration would close this gap, giving more abused children the chance at a stable future in this country.

We do not have to guess what the outcome will be of expanding access to SIJS for DC youth; we have an example right next door in Maryland. Approximately two years ago I had the privilege of testifying before the Maryland General Assembly in support of similar legislation, which was successfully passed and has been in operation there since October 2014. Over the past two years, in my day-to-day practice, I've been able to personally observe the positive outcomes for both the state of Maryland and for immigrant youth.

First, the Maryland courts are better able to process, adjudicate, and administer justice in these cases than before. This is in no small part due to a substantial reduction in "emergency" cases where a child is on the verge of "aging-out" of SIJS eligibility. These "eleventh-hour" cases tax courts' judicial and administrative resources, and they do not always receive the careful consideration they are due on account of the expedited time-frames. Having had this burden alleviated, Maryland counties with large numbers of SIJS filings have since been able to implement internal policies and procedures for effectively and efficiently handling these cases, as well as for safeguarding the interests of all interested parties, including those abroad, and screening for possible instances of human trafficking, abuse, and fraud.

Second, in just the last two years since Maryland raised the jurisdictional age to 21, I have observed a noticeable uptick in the number of my Maryland clients choosing to stay in high school despite turning 19, 20, or even 21, whereas before they may have dropped out to enter the low-wage workforce. Knowing that they will be getting their "green cards" motivates them to achieve higher goals, and in so doing, contribute to our community in more significant and meaningful ways.

The legislation that Maryland enacted has, unfortunately, had the unintended consequence of separating mixed (immigration) status families when some members move to Maryland to pursue SIJS. Take for example my client, Mrs. Velasquez, who is the mother of two children, a daughter (20) and a son (18). In 2015, the DC Superior Court awarded Mrs. Velasquez Custody of her son and signed a SIJS factual findings order. (Her daughter had "aged out," and was too old to be included on that case.) US Immigration processed her son's case quickly, and he is now a Lawful Permanent Resident . . . living alone in DC while he finishes high school. As of January 2016, his mom and his sister live in Maryland where a Custody and SIJS case is now in the pipeline. While it pains Mrs. Velasquez to split her family up, she wants to give *both* of her children a shot at the 'American dream.' The Velasquez family and many others would benefit immensely from parity between Maryland and DC's laws.

For all of the foregoing reasons, and on behalf of all of the DC immigrant youth that I represent each year, I strongly urge you to support the Strengthening Youth Services and Rehabilitation Amendment Act of 2016.

To: **Members of the Committee on the Judiciary**
From: **Karine Noncent Shaw, Esq., Staff Attorney, Ayuda**
Re: **The Comprehensive Youth Justice Amendment Act of 2016, B21-0683**
Position: **Support**

My name is Karine Noncent Shaw. I am an immigration attorney licensed in both Maryland and the District of Columbia at Ayuda. Ayuda is a nonprofit organization that has been dedicated to serving low income immigrants since 1973. Ayuda envisions a community where all immigrants overcome obstacles in order to succeed and thrive in the United States. We realize our vision by advocating for immigrants through direct legal, social and language services, training and outreach in the Washington, D.C., metropolitan area.

The majority of my time at Ayuda has been dedicated to working with immigrant minors; although every child's story has been different, they have all shared one common goal. They are all seeking the opportunity to thrive. To that end, I have pursued dozens of successful applications for Special Immigrant Juvenile Status for minors from all over the world, from Honduras to Nigeria to Guatemala. Special Immigrant Juvenile Status allows minors, who have suffered neglect, abandonment or abuse at the hands of one or both of their parents, to establish a permanent place in U.S. society. Federal immigration law allots this status to minors under the age of 21. Currently, the D.C. Courts can only enable minors under the age of 18 to pursue this status.

Last year, I met Rodrigo, a passionate young man from Guatemala. He had been reunited with his older brother, and had just begun the 9th grade. I remember his description of his life in Guatemala – he described an angry parent, who hit him for no reason. He talked about gang members who would rob him on his way home from school. Most of all, I remember the look on his face when I explained that he could not pursue Special Immigrant Juvenile Status in the District of Columbia because he was already 18 years old. Rodrigo had worked hard to make D.C. his home; he was learning the language, making friends, and making plans for his future.

Stories like Rodrigo's are what bring me here today. This Amendment offers a much needed chance to minors residing in the District of Columbia, who but for their age would be eligible for Special Immigrant Juvenile Status, the opportunity they desperately seek: the opportunity to thrive.

The years between age 18 and 21 are a formative time for any minor; even more so for immigrant minors, many who have experienced unimaginable trauma and made drastic sacrifices for the opportunity to live in the United States. Like Rodrigo, many of the over-18 minors I have worked with are only beginning high school. They came to the United States, determined to pursue their education. They have been hindered in their pursuit due to the abuse by family members at home, and violent gang interactions on their way to school.

Upon their arrival to the United States, these minors are in dire need of a sense of community and support. That sense of support begins with having someone in their corner, serving as a guardian or custodian, dedicated to their personal success. Through the process of obtaining custody of the child, the guardian can also obtain the additional findings that would make the child eligible for SIJS. I have seen firsthand how immigrant minors are better able to thrive with the support of a knowledgeable invested guardian. This guardian or custodian can help them enroll in

school, encourage them to focus on their education, provide a safe home, and help them adjust to life in the District of Columbia.

In light of the particular vulnerability of these minors, the need for this Amendment is at an all-time high. Without lawful immigration status, these children remain uniquely vulnerable to exploitation, labor and sex trafficking, deportation, and, where the child has previously suffered abuse or exploitation, revictimization. They lack the opportunities to live safe, productive lives and to plan for their futures. The fact that these minors are over the age of 18 should not be a barrier to their success.

When an immigrant child obtains legal status, one of the single largest barriers to their success is removed. Legal status grants access to the keys to long-term success including tuition assistance for higher education, a driver's license and car insurance, and legal employment. Obtaining work authorization allows children to plan for their future, aim for better and higher-paying jobs and to avoid exploitative work environments. Additionally, these children can live without the fear of deportation or uncertainty of life under the radar. Further, these children will become assets to the community of the District of Columbia.

This Amendment will allow many more immigrant minors to live as all children should – planning for their future, devoting their energy to developing and learning, and growing into successful adults. This Amendment represents the opportunity for stability. I speak from personal experience, as an immigrant myself, when I say - the importance of stability in the life of an immigrant child cannot be underestimated. I thank you for the opportunity to share my support on this bill.

NATIONAL JUVENILE JUSTICE NETWORK

Testimony of Sarah Bryer

Director of the National Juvenile Justice Network

For the Washington DC Judiciary Committee Hearing on Bill-210683 – The Comprehensive Youth Justice Amendment Act of 2016

Delivered: June 2, 2016

Good morning Chair McDuffie and members of the Judiciary Committee. My name is Sarah Bryer, and I'm the director of the National Juvenile Justice Network, a membership group for state reform organizations, all of whom seek the fair and effective treatment of youth in trouble with the law. With 51 member organizations across 41 states and the District of Columbia, the Network has a cross-country view of the landscape of youth justice reform and thus has information both about the scope and direction of national trends as well as individual state experiences implementing any particular reform. I'm pleased to be able to testify today in support of Bill 21-0683, the Comprehensive Youth Justice Amendment Act of 2016, both in my capacity as the director of this network and as a decade-long resident and parent in the District of Columbia.

Like you, we believe in keeping our communities safe and in helping the youth of DC thrive. This bill will help achieve those goals because it offers practical juvenile justice policies and programs based on proven, age-appropriate interventions. Although we support every provision in the bill, I will talk today about those that would prohibit the placement of youth in adult jails.

We now know that our brains get built in an ongoing construction project that begins before birth and continues to about age 25, with especially rapid developments between ages zero to three and again in adolescence, and that these changes affect youths' judgment, decision-making, and behavior. What happens during these growth phases, just like building a house, lays a crucial

foundation for the rest of their lives, and can have a lasting effect on their capacity to develop into healthy adults and responsible citizens.

The research on youth development has had a dramatic impact on our understanding of what works in holding youth accountable and keeping communities safe. The U.S. Supreme Court, in four separate decisions, has recognized the legal and practical implications of the science of youth and adolescent development – and so have states across the country. The Network has been tracking state trends in youth justice reform policy since 2005, and over this period of time we've seen a tsunami of legislation premised on the idea that children are different from adults and should be treated accordingly.

These court decisions and new laws take into account the fact that the teen years are an incredible age of opportunity for growth and maturity. As teens mature, they need to be able to meet changing cognitive, emotional, and social expectations and requirements. Their brains remodel themselves to respond to these new challenges, and the quality of the supports available to young people has a lasting effect on their capacity to develop into healthy adults and responsible citizens. Putting youth into adult facilities disrupts this building process and compromises the outcome.

Adult jails – including those that our DC youth are confined in -- do not provide the right building materials to help youth mature, lacking necessary staff trained in adolescent development, appropriate mental health and other services, youth development programs and educational opportunities.[i] Worse, youth in adult jails and prisons are much more likely to be sexually[ii] and physically assaulted and to commit suicide.[iii] This is why the federal Prison Rape Elimination Act has mandated that all youth below the age of 18 not be housed with adults and be sight and sound separated from adults outside of the housing units. Placing all of our youth in adult court under the age of 18 in juvenile detention facilities will help DC meet this requirement of the Prison Rape Elimination Act in a manner that best promotes public safety.

The research on outcomes for youth placed in adult facilities bears out the research on adolescent and brain development. A 2007 study and review of the body of scientific research about youth transferred to the adult system by the Centers for Disease Control and Prevention found that

transfer to adult court increased recidivism.[iv] Similarly, a 2013 study by the Washington State Institute for Public Policy found that when all relevant factors were controlled for – including severity of offense and age -- those youth who were sent to the adult system were more likely to recidivate.[v]

In short, if we want to ensure that youth who have committed offenses are held accountable in ways that are most likely to prevent future criminal behavior (and which keep them safe from harm), we must take advantage of the "age of opportunity" to foster positive brain development by ensuring that our teens are placed in environments that provide the right kinds of supports for the kind of development we want to promote– which means they should be in juvenile facilities, not those meant for adults. The bill would accomplish this by ensuring that youth under 18, who have been transferred into the adult system and are awaiting trial, would be placed in the detention facilities rub by the DC Department of Youth Rehabilitation Services.

D DC may have questions regarding best practices for how to manage youth who have been transferred to the adult system in their juvenile facilities. Fortunately, DC will not be breaking new ground. In addition to the many states that have removed youth from adult jails, the majority of states mix delinquent youth with those headed for the adult correctional system within their juvenile facilities. Through statutory blended sentencing options for youth with serious offenses, at least 32 states allow youth to start their sentence in a juvenile facility and move to adult prison at or after the age of 18[vi]. Moreover, according to the Office of Juvenile Justice and Delinquency Prevention, more than 6 in 10 residential facilities in the U.S. hold a mix of youth in placement for violent offenses (murder, violent sex offenses, robbery, and aggravated assault) with youth in placement for nonviolent offenses.[vii] Both detention and correctional facilities are clearly managing these joined populations without issue. Given the large number of states that have already implemented such policies, DC will have ample time during the delayed implementation of these provisions in the bill to learn from our peers in the field.

On the detention side, the trend is to permit or require that youth being tried as adults be housed in juvenile detention prior to trial; this trend most recently includes Colorado, Hawaii, Indiana, Maine, Maryland, Nevada, Oregon, Ohio, Pennsylvania, Texas and Virginia.[viii] Given the large

number of states that confine transferred youth pre-trial in juvenile detention, and who house youth who have adult or blended sentences in juvenile facilities, DC will have ample time during the delayed implementation of these provisions in the bill to learn from our peers in the field about best practices.

In summary, Bill 21-0683 will align DC with the latest research on adolescent development, will improve outcomes for our youth, and will make our communities safer. Thank you for your time and consideration.

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[i] Peerman, Alex et al, "Capital City Correction: Reforming DC's Use of Adult Incarceration Against Youth," DC Lawyers for Youth and Campaign for Youth Justice, 2014, p. 18-19.

[ii] In two separate Bureau of Justice Statistics studies from 2005 and 2006, youth in adult jails were respectively 21 percent and 13 percent the victims of inmate to inmate sexual violence: remarkable, given that youth comprise only one percent of the total jail population. From "Sexual Violence Reported by Correctional Authorities" as cited in Zeidenberg, Jason, "You're an Adult Now," National Institute of Corrections, 2011, p. 11.

[iii] 75 percent of all deaths of youths in adult jails were due to suicide. Department of Justice 2010 study, "Deaths in Custody" as cited in Zeidenberg, p. 11.

[iv] Centers for Disease Control and Prevention, "Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: A Report on Recommendations of the Task Force on Community Preventive Services," MMWR 2007;56, 2007, http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5609a1.htm.

[v] Washington State Institute for Public Policy, "The Effectiveness of Declining Juvenile Court Jurisdiction of Youth," 2013.

[vi] Fourteen states have juvenile blended sentence and 18 states have criminal blended sentence, for a total of 32 states that have either. From National Center for Juvenile Justice website, accessed, May 31, 2016. http://www.jjgps.org/jurisdictional-boundaries

[vii] *OJJDP Statistical Briefing Book,* http://www.ojjdp.gov/ojstatbb/corrections/qa08509.asp?qaDate=2013. Released on April 27, 2015.

[viii] Campaign for Youth Justice, "State Trends, Legislative Victories 2011-2013," 2014.

CENTER FOR Children's Law *and* Policy

TESTIMONY OF JENNIFER LUTZ
Staff Attorney, Center for Children's Law and Policy
Campaign Manager, Stop Solitary for Kids

Before the Committee on the Judiciary
Council of the District of Columbia

June 2, 2016

Chairman McDuffie and Members of the Committee on the Judiciary:

On behalf of the Center for Children's Law and Policy, thank you for the opportunity to testify on the important issue of room confinement of youth and the Comprehensive Youth Justice Act of 2016. The legislation would introduce important limits on the solitary confinement of youth in the District of Columbia. These provisions will help align policies and practices in the District with the growing national attention to the harms of room confinement and the effective alternatives to its use.

The Center for Children's Law and Policy (CCLP) is a national public interest law and policy organization widely recognized for our expertise on issues related to conditions of confinement of youth. Our staff has spent a decade working with jurisdictions across the country to remedy dangerous conditions of confinement in facilities that house youth – including the use of room confinement. We drafted the extensive Juvenile Detention Facility Standards used by the Annie E. Casey Foundation in its Juvenile Detention Alternatives Initiative (JDAI) and have advised various federal agencies and many state and local governments on strategies to improve conditions of confinement in facilities that house youth.

This year, our organization launched Stop Solitary for Kids, a national campaign to end room confinement of youth in juvenile and adult facilities in the United States. The campaign is a joint effort of our organization, the Council of Juvenile Correctional Administrators (which is comprised of the directors of state juvenile justice agencies), the Center for Juvenile Justice Reform at Georgetown University, and the Justice Policy Institute. Stop Solitary for Kids aims to end room confinement by working at the federal, state, and local levels through research, public education, policy reform, improved facility practices, legislative changes, training, and technical assistance.

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The Stop Solitary for Kids campaign defines solitary confinement as "the involuntary placement of a youth alone in a cell, room, or other area for any reason other than as a temporary response to behavior that threatens immediate harm to the youth or others."[1] The campaign recognizes that brief periods of room confinement may be appropriate when youth are out of control and posing an immediate risk of harm to self or others, and de-escalation and other strategies have been ineffective. However, room confinement should not be used for other reasons. This position is also consistent with national best practices outlined in the Annie E. Casey Foundation's Juvenile Detention Facility Standards (described above)[2] and the Council of Juvenile Correctional Administrators' Toolkit on Reducing the Use of Isolation.[3]

There is a growing national consensus that we must eliminate solitary confinement for children, and that such a result is, in fact, possible. Earlier this year, President Obama limited the use of room confinement for youth in federal facilities to a maximum of three hours and banned its use for the purposes of punishment or discipline. These limits follow guidelines from the Justice Department's Report and Recommendations Concerning the Use of Restrictive Housing. They are also consistent with the Sentencing Reform and Corrections Act of 2015, which was introduced by a bipartisan group of U.S. Senators. A diverse group of national organizations support the end of room confinement for youth, including the American Correctional Association, the National Commission on Correctional Healthcare, the American Psychological Association, and the National Partnership for Juvenile Services.

The Comprehensive Youth Justice Act of 2016 will help the District of Columbia join states that have safely reduced the amount of time that youth spend in room confinement. Some agencies have all but eliminated the use of room confinement by implementing strategic reforms. The Commonwealth of Massachusetts Department of Youth Services, for example, rarely uses room confinement for more than 2 hours,[4] the Ohio Department of Youth Services has reduced room confinement to an average of 2.83 hours,[5] and the Indiana Division of Youth Services has reduced the average length of room confinement to under 3.07 hours.[6]

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[1] Stop Solitary for Kids Position Statement, March 29, 2016, *available at* http://www.stopsolitaryforkids.org/wp-content/uploads/2016/04/Stop-Solitary-for-Kids-Position-Statement-3-29-16.pdf.

[2] Juvenile Detention Facility Assessment Standards Instrument, 2014 Update: Juvenile Detention Alternatives Initiative, a project of the Annie E. Casey Foundation, *available at*: http://www.cclp.org/documents/Conditions/JDAI%20Detention%20Facility%20Assessment%20Standards.pdf.

[3] Council of Juvenile Correctional Administrators, Toolkit: Reducing the Use of Isolation (March 2015), *available at* http://www.stopsolitaryforkids.org/wp-content/uploads/2016/04/CJCA-Toolkit-Reducing-the-use-of-Isolation.pdf.

[4] Presentation of Nancy Carter, Director of Residential Operations, Massachusetts Department of Youth Services, Juvenile Detention Alternatives Initiative Intersite Conference, April 18, 2013.

[5] Will Harrell, Kelly Dedel, and Terry Schuster, *The Ohio Model: A Report on the Transformational Reform of the Ohio Department of Youth Services, 2007-2015*, (December 2015), *available at:* http://www.justice.gov/opa/file/799466/download.

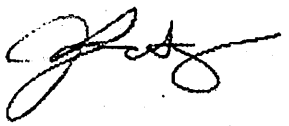
[6] Presentation of Christine Blessinger, Executive Director, Division of Youth Services of the Indiana Department of Correction, Stop Solitary for Kids Launch Event, Washington D.C., April 19, 2016.

We are pleased that the Comprehensive Youth Justice Act of 2016 incorporates many nationally recognized best practices regarding the use of room confinement. These include prohibiting the use of room confinement for punishment, discipline, convenience, or staffing shortages, and only allowing room confinement after all less restrictive options have been exhausted. However, we encourage the Council to adhere fully to national best practice standards and strike Section 203, provisions (b)(2) and (b)(3), which permit youth to be placed in room confinement under broad circumstances well beyond situations where youth pose an immediate risk of physical harm.

We also appreciate that the legislation includes consultation with mental health staff in situations where youth are held in room confinement. We hope that the legislation will encourage facility administrators to strengthen partnerships with mental health professionals. In our experience, frequent involvement by mental health staff is one of the key components of successfully reducing the use of room confinement.

Room confinement can have long-lasting and devastating effects on youth, including trauma, psychosis, depression, anxiety, and increased risk of suicide and self-harm. Many youth in room confinement do not receive appropriate education, mental health services, or drug treatment, and half of all suicides in juvenile facilities occur while youth are in room confinement. Many state agencies and juvenile facilities around the country have demonstrated that they can maintain the safety of their institutions while moving away from this dangerous and counterproductive practice. In addition, research and experience demonstrate that reducing the use of room confinement in juvenile facilities actually reduces violent incidents and increases safety for youth and staff in the facilities. For these reasons, we urge you to pass the Comprehensive Youth Justice Act of 2016. Please do not hesitate to contact us if we can provide any additional information or assistance.

Sincerely,



Jenny Lutz, Staff Attorney and Campaign Manager, Stop Solitary for Kids
Center for Children's Law and Policy

ACCESS
YOUTH

Testimony of Jodi Elaine Ovca

Founder & Executive Director, Access Youth

Committee on the Judiciary Public Hearing on the Comprehensive Youth Justice Amendment Act of 2016

Thursday, June 2, 2016, 10:00AM Room 500

Good morning Chairman McDuffie and members of the Committee. I, Jodi Ovca, Executive Director of Access Youth, thank you for the opportunity to appear today to testify in support of the *Comprehensive Youth Justice Amendment Act of 2016*.

Access Youth believes at-risk youth belong in classrooms, not courtrooms. We believe the community should aim to educate them, not incarcerate them. That's why our mission is to keep at-risk youth in the District of Columbia in school and out of the justice system, so they can achieve successful futures. Since I founded Access in 2009, we have worked in partnership with the Office of the Attorney General, the Metropolitan Police Department, the Department of Behavioral Health and DC Public Schools to serve over 1,500 youth and community members with remarkable results. We have observed all facets of the school-to-prison pipeline: how chronic absenteeism can result in court referral for truancy; how an in-school altercation can result in long-term

suspension and arrest; and how minor misbehavior in the community can result in a criminal record.

With our unique experience working directly with youth on the cusp of entering the juvenile justice system, we wish to express our support for this bill. We have observed the negative impact that current practices can have on youth and families – some as young as 8 years old – to be placed in detention, separated from their parents, and caught up in the court system. This bill addresses a number of these issues by prohibiting harmful practices of the past and promoting new ones aimed at keeping youth and families whole and supported with the services that will prevent recidivism.

I would like to focus my remarks on two provisions in the bill. First, we are heartened to see that the bill recognizes the need for enhanced information sharing among the agencies serving youth who are currently or at risk of becoming court-involved. Access Youth offers the longest-running diversion program currently available in the District of Columbia, which, today, is provided through the Alternatives to the Court Experience (ACE) Diversion program under the Department of Behavioral Health. As an ACE Program Community Partner, we believe it is critical that the government agencies serving the youth in this program are able to share the information needed to provide optimum services and also to be able to effectively measure the results and outcomes of these services.

The second provision I wish to comment on is Section 302, which amends Section 101 of the "Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010" with a paragraph that reads:

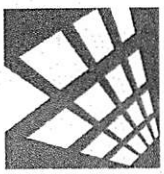
> "The Office of the Attorney General shall develop a program to provide victim-offender mediation as an alternative to the prosecution of juveniles in cases deemed appropriate by the Attorney General; provided, that participation in the mediation program established in this subsection shall be voluntary for both the victim and the offender."

As the operator of the city's longest-running juvenile victim-offender mediation program – which began in 2009 in partnership with the Office of the Attorney General and the Metropolitan Police Department and is currently offered through the ACE Diversion Program – we are, predictably, very supportive of the use of mediation in this capacity. Our juvenile victim-offender mediation program has served well over 1,200 youth and community members, with satisfaction, success and compliance rates upwards of 90%. Given the existence and success of this program, I urge the District to utilize the experiences, lessons learned, skill set and systems already existing within our long-running program, rather than start from scratch and establish a new duplicative program.

In addition, one of the key lessons learned from our years of experience offering mediation services to constituents served by city agencies is the critical importance of a

foundational principle of the mediation profession: independence and neutrality. If the mediator, and the entity he or she works for, is not perceived as independent by the parties involved, that often creates distrust of the process and leads to failure. If personnel of city agencies such as the Office of the Attorney General – whose role is to prosecute such cases – were to attempt directly to serve as mediators, this would present at least a perceived conflict of interest, which could undermine the mediation process and the principles on which such efforts stand. These services should be offered by a reputable, experienced, independent organization, in order to minimize any real or perceived conflict of interest that may appear when prosecutors act as mediators.

Therefore we urge the committee to clarify the language or at least the intent of Section 302, to require that mediation services and compliance monitoring be performed by an independent, neutral organization with the background and expertise to successfully provide victim offender mediation services for juveniles, their families and the community. Thank you for the opportunity to testify.



THE SENTENCING PROJECT

RESEARCH AND ADVOCACY FOR REFORM

Testimony of Josh Rovner

State Advocacy Associate
The Sentencing Project

In support of B21-0683

Before the Committee on the Judiciary, Council of the District of Columbia

June 2, 2016

REMOVING TEENAGERS FROM THE DC JAIL

The District currently holds juveniles awaiting trial on a set of very serious offenses in the DC Jail. These teenagers are still, under the law, innocent until proven guilty, but placing them in an adult facility victimizes them prior to trial. The New Beginnings Youth Development Center is a secure facility. It is capable of holding serious teenaged offenders until their trial.

Adult facilities are far too dangerous for teenagers. It places them on a path away from rehabilitation. The Campaign for Youth Justice has found, nationwide, juveniles housed in adult jails are far more likely to commit suicide than children held in juvenile facilities. They are far more likely to be assaulted by staff or other people held there.[6]

In no way would placing juvenile offenders in a different facility mean releasing teenagers who are presently a threat to public safety. It does mean placing them, securely, in a facility whose every professional staff member is equipped to deal with teenagers.

Some of these teenagers will be found innocent, of course. But almost all of them will be coming home someday. We cannot build a safe city without thinking about the return of teenaged offenders from the very moment of their arrest. Holding teenagers in adult facilities is ineffective.

ENDING THE SECURE DETENTION OF STATUS OFFENDERS

After all this talk about very serious offenses, let me finally turn to status offenses: a set of activities that are only against the law due to the offender's age. Status offenses include skipping school, running away from home, and nebulous offenses like ungovernability. District law calls them status offenders "persons in need of supervision."

Make no mistake: such children *are* in need of compassionate supervision, but the justice system is not the appropriate response. The harsh treatment of status offenders – locking kids up for skipping school – has not been proven to be an effective way to eliminate the underlying behaviors. Successful responses would deal with the underlying issues, including those of the home environment. Placement does not make sense, and shoves these kids even further away from their diploma. Status offenders who are formally processed in the justice system – instead of through other social service providers – are more likely to recidivate.[7] If the District is serious about truancy, it must deal with the problem outside the walls of New Beginnings.

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Thank you for the chance to submit these comments. I look forward to any questions you may have.

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[6] Campaign for Youth Justice (2007). Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America. Available: http://www.campaign4youthjustice.org/Downloads/NationalReportsArticles/CFYJ-Jailing_Juveniles_Report_2007-11-15.pdf

[7] http://www.crimesolutions.gov/PracticeDetails.aspx?ID=9

June 2, 2016, statement of G.T. Hunt, D.C. attorney:

Many of the unaccompanied minors who have come to D.C. fleeing the gangs and the other deplorable conditions in El Salvador and Honduras are enrolled as students at the International Academy at Cardozo High School.

I have had the privilege of working with them and with the excellent staff at Cardozo to get them special immigrant juvenile status under the immigration law. This SIJS process starts with findings in a local juvenile court that it would not be in the juvenile's best interest to return to his or her home country. These local findings can then be submitted to the immigration authorities to start a process leading ultimately to a green card.

SIJS is not a loophole. It is a recognition that these young and adaptable people are desirable immigrants and will make good, productive Americans.

The Council should raise the age limit for Superior Court judges to issue the findings needed for SIJS.

Also, in recent months it has become obvious that some Superior Court judges have become apprehensive that they will be criticized for granting these findings too often. Some judges have started raising objections and demanding a level of evidence often impossible to gather in the remote and gang-infested areas of Central America.

I hope the Council can pass legislation both to raise the age limit and to encourage the judges to respond realistically to the difficult circumstances that have led these unaccompanied minors to seek refuge here.

GAILLARD T. HUNT
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PROPOSED LEGISLATION:

Add to Title 16 and new section, D.C. Code § 16-4602.11:

> Any person under the age of 21 years in the District of Columbia alleged to be entitled to any immigration benefit under Federal law requiring findings of a State or local court is dependent upon a juvenile court in the District of Columbia. The court shall promptly hear and determine, and recite as findings in a written order, all facts relevant to such benefit, with due regard to conditions in the person's country of origin and to difficulties of communication and barriers to the of gathering of evidence from there.

Under D.C. Code § 1-206.02 (a)(4), the D.C. Council is not allowed to modify Title 11 of the D.C. Code, relating to organization and jurisdiction of the District of Columbia Courts. There may be objections to modifying the definition of a "child" because that would affect the jurisdictional provisions of D.C. Code § 11-1101. The proposed SIJS section should therefore be added to the Uniform Child Custody Jurisdiction and Enforcement Act in Title 16, D.C. Code § 16-4601.01 et seq. That Act was enacted by the D.C. Council in 2001 and unquestionably may be modified by the Council for this purpose.

Maryland raised the cut-off age for an SIJS determination from 18 to 21 by 2014 Md. L. c. 96, signed April 8, 2014, amending Md. Code Ann, Family Law, section 1-201.

Many states allow SIJS findings up to age 21. E.g., *Recinos v. Escobar*, Mass. Sup. Jud. Ct., No. SJC-11986, March 4, 2016; *D.G. v. R.S.G.*, N.J. App. Div., No. A-3112-14T2, May 2, 2016.

Respectfully submitted,

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gthunt@mdo.net

Adriane D. Cubbage

1131 University Blvd. W.

Silver Spring, Md. 20902

To Whom It May Concern,

I am writing this letter in reference to the Bill B21-0683 Comprehensive Review Youth Justice Amendment Act of 2016. Twenty years ago at the age of sixteen my Godson Marion James Crawford III made a life altering decision which resulted in him receiving a thirty five year to life sentence. Since his incarceration he has attained his GED, a Leather Tailoring Profession, and is currently attaining a Business Degree at Glenville State College with an already written business proposal . He has grown into an intelligent, business oriented rehabilitated man. Because I can't bear to see him locked up my only communication with my Godson has been only through letters and phone calls. I love and miss him so much. I'm so thankful to my Heavenly Father that he made the decision to use his time away from us as a tool to better himself so that he could become a productive citizen, and be a positive role model to other youths struggling in todays' society. Please support this Bill and allow my Godson and others like him to come home to their families so that they may also help to support, and save our youths from the streets.

THANK YOU SO MUCH FOR YOUR TIME, ATTENTION AND CONSIDERATION.

SINCERELY,

Adriane D. Cubbage

Testimony of Eddie B. Ellis Jr in **Support**

Native of Washington, DC

Founder/CEO, One by 1, Inc.

Member, Incarcerated Children's Advocacy Network

Comprehensive Youth Justice Amendment Act of 2016 (B21-0683)

Thursday, June 2, 2016

I was 16 years old when I was arrested for first-degree murder with the use of a deadly weapon in the year of 1991. I was trying to defend myself from being hurt and or possibly killed, but I have never and will never minimize what took place that day.

I was charged as an adult under Title 16 in Washington, DC, and I was facing life in prison as a child for the bad choices that I made at that time. As a 16-year-old child, I could not understand or comprehend what was taking place in court or in my life at that time. When I was a kid I dealt with a lot of depression and self-esteem issues and I just felt that no one would understand what I was dealing with, so I didn't talk to anyone about what I was feeling.

When I was told that this teenager lost his life because of what I did, even though I was protecting myself, I felt like crap and went into a stage of deep depression because I took someone's life and that person deserved to live just like I did. I've been living with that ever since then. The victim's family asked the Judge to be lenient with me because we were all kids and I apologized to them for my actions. I told them that I didn't mean to take his life and it took me years to learn how to forgive myself for what I did. I didn't apologize to my mother and my family at that time because I didn't realize how I hurt them and let them down because of my actions. As a kid, I couldn't grasp the fullness of the situation.

When my pre-sentence report was written, it basically said that I needed to be sentenced to the fullest extent of the law. They said that I would never change. I was only a kid who made a bad choice, but to be condemned to never change was wrong of the pre-sentence report writer to say! I was offered a 15-year plea deal for manslaughter and I didn't take it because I knew that I didn't mean to take his life. I took my case to trial. I was found guilty of manslaughter and I was sentenced to 22 years under the Youth Rehabilitation Act. When I was told my sentence, I went back into a deep depression that turned into anger. For years I was stuck in that mood.

When kids are being sent to prison as adults, they will be affected mentally and emotionally in unhealthy ways, which will affect the way they grow up to be adults. Some of these kids are being taken advantage of by older people in prison. They are being put in solitary confinement. These adult prisons are not equipped to deal with kids so they treat them like adults, which they

are not. I don't think that it's fair to condemn a child to life in prison or to keep charging children as adult, because the courts are not giving these children a chance to change their life and be a different person out here in the community.

I did 15 years for the bad choices that I made and I have taken full responsibility for what took place on December 20th, 1991. Despite the writer of my pre-sentence report wanting me to spend the rest of my life in prison and saying that I would never change, I can tell you that they were wrong. I have changed from who I used to be. This year will be my 10th year home as a free man, who has given back to the community in many ways. I was given a second chance with my freedom and I have been able to mentor others, speak at schools, train probation officers, train lawyers, train social workers, and sit on the board of National Legal Aid & Defender Association for 3 years. I started my own non-profit organization, One by 1, Inc., which has helped many people over the years. One by 1, Inc., is an organization that works with communities and partners to provide youth development workshops and mentoring services. One by 1 also provides supports, services, and resources to aid in the successful transition of youth and adults who are reentering society from incarceration. If I would have spent the rest of my life or even half of it in prison, I wouldn't be able to do the wonderful things that I am doing in the community today.

I ask you, please give these children a chance by changing these laws and not condemn them to life in prison. Please change the age limit of children being sentenced as adults in the District of Columbia because these children's lives are being destroyed in these adult prison systems. The adult prison system is not prepared to address the needs of these children.

Testimony in Support of the Comprehensive Youth Justice Amendment Act of 2016

B21-0683

Madeline E. Nelson

June 2, 2016

Dear Chair McDuffie and Members of the Committee on the Judiciary,

On behalf of my family, friends, church ministry at Corinth Baptist Church, parents of incarcerated youth of the 1990s and all others concerned with the well-being of youth introduced into the federal justice system as juveniles, especially in behalf of my son, Norvelle L. Nelson. I am currently a resident of the District of Columbia, in Ward 7, and have lived here since 1971. I would like to offer my written testimony to be presented before the council. I was just recently sent notice of the meeting, and it has gone beyond the cut-off date for making the testimony deadline to speak in person. The AC41 and TAWL Foundation Association informed inmates throughout the federal prison system, that the DC City Council will be holding a public hearing on June 2, 2016, regarding the B21-0683 – Comprehensive Youth Justice Amendment Act of 2016. However, in lieu of the fact that I was unable to meet the deadline for oral testimony, I would still like to voice my concerns on the Amendment Act.

My son was 17 years old when he was convicted in 1994. He was sentenced 45 years to Life. I am in full support of any Legislation that will help any inmate who was incarcerated as a juvenile, serving his sentence in a federal institution, to have the sentencing reevaluated and possibly minimized. There is a need for re-evaluation of each case and each circumstance. Prosecuting young adolescents as adults does not rehabilitate them or deter future crimes. There is the need for new sentencing hearings where judges will have to consider individual characters and life circumstances. Who is to say that at such an early age before incarceration, these inmates may have suffered from abuse, neglect, domestic and community violence, and poverty without effective intervention and help? Some young teens cannot manage the emotional, social, and psychological challenges of adolescence and eventually engage in destructive and violent behavior. But are they to pay the ultimate price of being incarcerated for long periods of time consuming their life and be expected to return to society after being warehoused with other much older adult inmates who are either beneficial or detrimental to their character?

My son has made great progress during his incarceration. He always was an exception student in school and has carried that over into his life in prison. He has been called upon to instruct classes in the absence of prison instructor, mentored older inmates who had little or no education, teaching, reading, writing and counseling. He has traveled more than ever, one institution to another, state to state. Even though he has been separated from his family for over 22 or more years, he has been an inspiration to us. When there's an algebra or geometry question for homework, we wait for his call. When someone needs a change in mind set to do the right thing, we wait on his call. His incarceration has eliminated him from attending three high school graduations and our first family college graduation that he played a major role in. His inspiration on life and life's teachings is unbelievable for all he has gone through between the age 17 and this year 40. What can you offer a person who has never seen life beyond the bars in all those years? How do you make his dream of counseling youth offenders in society a reality? He has several gifts of God, wisdom, faith, understanding, knowledge and caring. So many others like him also deserve this great opportunity.

Society ignores the crisis and dysfunction that creates adolescent delinquency and instead have subjected adolescents to further victimization and abuse in the adult criminal justice system. Parole-eligible sentences, unique release and re-entry challenges too often create insurmountable obstacles to parole and successful re-entry. Young people who have been in prison since they were adolescents need help learning basic life skills which most institutions provide. However, these inmates incarcerated as youths have been forced into adulthood, yet while their brains are not yet fully developed, and because they are still growing, they have a greater capacity for rehabilitation. They're not the same people when they were at the ages of 16, 17, and 18 than they are when they're 40 and 50 years old. The learning process of incarceration is hard and brutal to youth, young and yes, some innocent. They are forced to the many dangers of being incarcerated with the "harder crowd" and having to develop more mind skills of survival. These young inmates are segregated from the general public and forced to live in a society with people for whom crime is a way of life.

In the 1990s, youth at the ages of 16, 17, and 18 were given a larger wave of tough-on-crime legislation. The sentencing restricted them to ever see the streets again until they were much older. But since then, advocates have turned the tide by championing research suggesting that juvenile offenders can be rehabilitated. Let us make changes in someone's life supporting the US Supreme Court decision on Miller vs. Alabama, supporting organizations such as TAWL, FAMM and the Juvenile Law Centers throughout the United States. These organizations has helped the justice system acknowledge that youth incarcerated at any early stage of their life need a chance to reform, demonstrate their capabilities and pursue the transformation of the renewal of their life. Let's reevaluate, rejuvenate and release for rehabilitation.

Yes, let us amend, redevelop and re-establish a path for these individuals who not only are costing the tax payers plenty of dollars, but for the inmate who have grown into maturity, a chance for rehabilitation and a chance of early release. There is a pursuit of justice for all, and a second chance of life for inmates incarcerated early in years and now under the age of 40 or 50 who have served many years to LIFE.

Thank you,

Madeline Nelson

Resident, Ward 7, Washington, DC

May 26, 2016

To whom it may concern,
My name is Shannon J. Morgan and I am writing on behalf of my God Brother, Marion James Crawford in support of the B21-0683 "Comprehensive Youth Justice Amendment Act of 2016". Marion has been incarcerated since the tender age of 16. He is now 36 years of age. As a Juvenile, Marion began serving a De Facto Life Sentence. He has been serving a 35 to Life Mandatory 30 years to Life sentence since 1996.

Marion was a Juvenile being raised by a single mother of 2 other children at the time of his incarceration. He has now grown into an Intelligent, Productive, Educated and Mature Man. Marion has achieved many Great things while incarcerated such as his GED/High School Equivalency Certificate, he is an experienced and skilled Leather Craftsman who graduated from the Advanced Leather Program and he is also currently enrolled in the Glenville State College with a GPA of 3.67. Along with more than 10 years of Leather Craftsman experience making purses, briefcases, backpacks, etc., Marion has also created a Business Plan to assist in accomplishing his Goals.

Considering Marion's young age at the time of his incarceration and being charged as an adult, Marion has remarkably made the Best out of a bad situation. Marion has rehabilitated his mind and spirit through Education and Maturation in order to become the New Person/Man he is today. I am very Proud of My Only "Big Brother" who I lost to the system when I was only 14 years old. I am testifying to the Fact that Marion is and will be a Law Abiding and Productive Citizen once he is released.

I have personally spoken to Marion on several occasions and heard the sincerity and strength behind his words when he states that he is Rehabilitated and will Strive to assist in keeping other Juveniles out of incarceration by reaching out and telling his story in an effort to prevent another Juvenile from going down the same path he mistakenly went down. Marion consistently stresses the consequences of bad choices and strives to be a better person/role model even from behind bars. Marion has a 28 year old brother who was only 8 years old at the time of his incarceration, a 22 year old sister who was only 2 years old, and since his incarceration he has vowed to be and continues to be the Best example he can for his younger siblings considering his current circumstances.

In closing I am Thanking God in advance that Marion is released very soon as a result of his Good behavior and Positive Rehabilitation along with the B21-0683 "Comprehensive Youth Justice Amendment Act of 2016". Also, I hope that you all can find it in your hearts to give Marion the second chance he has earned and deserves.

Thank you for your time and attention regarding my God/Big Brother Marion James Crawford.
Please support my God/Big Brother Marion James Crawford and the B21-0683 "Comprehensive Youth Justice Amendment Act of 2016".

Sincerely,

Shannon J. Morgan

Written Testimony Submitted: May 31, 2016
Oral Testimony Provided: June 2, 2016

Written Testimony by the National Juvenile Defender Center Related to the District of Columbia's Comprehensive Youth Justice Amendment Act of 2016

Thank you for giving the National Juvenile Defender Center (NJDC) the opportunity to provide testimony on this important Bill aimed at reforming the juvenile justice code in the District of Columbia. We applaud this comprehensive reform effort and thank those who have invested so much time, energy, and thoughtfulness in the drafting of this Bill, which we find to be to in line with developmentally-appropriate juvenile justice reform, national best practices, enhanced public safety, and the respect for due process.

NJDC is a non-profit, non-partisan organization dedicated to promoting justice for all children by ensuring excellence in juvenile defense. NJDC provides support to public defenders, appointed counsel, law school clinical programs, and non-profit law centers to ensure quality representation in urban, suburban, rural, and tribal areas. We also offer a wide range of integrated services to juvenile justice stakeholders looking to promote developmentally-appropriate, scientifically-sound reform, that is based on national best practices. We do this, in part, through comparative analysis of juvenile codes around the country and through in-depth assessments of access to and quality of juvenile indigent defense counsel in individual states. NJDC has conducted twenty-one state assessments, which are available on our website, and which include the District's neighboring states of Maryland, Virginia, and West Virginia.[1] On a personal level, as a resident of the District of Columbia, and a juvenile defense attorney who has several years of experience representing youth in this city, I have first-hand experience with the District's laws and juvenile system and am able to compare them with those across the country.

Given the breadth of this Bill, I am going to limit my remarks to just a few specific areas of national best practices regarding developmentally-informed juvenile justice systems. As an overall reform measure, NJDC believes the steps taken in this Bill move the District of Columbia in the right direction toward research-based principles that reduce recidivism and improve outcomes for youth.

Reducing the Use of Secure Detention of Youth Actually Promotes Community Safety

The Bill you are considering today provides significant limits on the use of youth detention that are more developmentally-sound, are rooted in national best practices, and are likely to improve public safety in the long run.

Prohibiting the Secure Detention of Youth Accused of Status Offenses

Truancy and running away are examples of behaviors that are nationally known as status offenses. These are offenses that only children can commit and are so minor, our laws do not

[1] *See* http://njdc.info/our-work/juvenile-indigent-defense-assessments

even consider them crimes; they do not even rising to the level of a misdemeanor. Yet across this country, including in the District of Columbia, it is still legal to detain or incarcerate children for these non-crimes. Research shows, however, that incarcerating youth for status offenses not only fails to address the underlying causes of the offending behavior, it is harmful to their development.[2] Issues like truancy and running away are simply symptoms of a larger problem. Children who act in this non-criminal way tend to do so out of larger, more important unmet needs. Abuse, bullying, lack of care and support, failure to address educational or developmental needs, lack of appropriate supervision, or a failure of the mental health system are just some of the reasons a child may decide to remove herself from home or school. While that choice may not be desirable, it is not criminal.

Studies show that incarcerating youth for status offenses can actually cause lasting harm.[3] Firstly, locking a child up removes the youth from the chance of developing or repairing the social networks and support systems in the community that are necessary for addressing the underlying causes of the behavior.

Secondly, detaining status offenders fails to act as a deterrent to subsequent behavior, because the root causes still exist.[4] The choice between escaping abuse and the potential of some future incarceration really isn't a choice for a child. In fact, we teach our children to remove themselves from harmful situations—to take a time out rather than to lash out. Similarly, ordering a child to attend school without remedying why she feels uncomfortable in that setting is a recipe for failure if the underlying needs are not addressed.

Finally, incarcerating status offenders with youth who have actually committed crimes—often much more serious offenses—not only puts these youth at greater risk, it can promote what's known as "deviancy training."[5] Research shows that peer influence has a greater effect on the behavior of adolescents than it does adults.[6] Adolescence is also the time a youth's identity is forming, which involves a need to feel accepted as part of a community.[7] Incarcerating status offenders with youth who commit delinquent offenses ensures that their peers—the members of their immediate community—are poorer influences. Anecdotally, defense attorneys report their clients having to "man up" or rise to the level of the other youth in their facility, either out of a need to feel safe or to feel accepted. Placing non-criminal youth into situations that may potentially turn them into greater offenders does not make our communities safer.

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[2] Coalition for Juvenile Justice, *National Standards for the Care of Youth Charged with Status Offenses* (citing several studies to this affect), pp 8-9.

[3] Brian Holman and Jason Ziedenberg, *The Dangers of Detention*. Washington, DC: Justice Policy Institute (2006).

[4] *Id.*

[5] T.J. Dishion, J. McCord & F. Poulin, "When Interventions Harm: Peer Groups and Problem Behavior," AMER. PSYCHOL 755-764 (1999); Richard Bootzin & Elaine Bailey, "Understanding Placebo, Nocebo, and Iatrogenic Treatment Effects," J. CLIN. PSYCHOL., 871-880 (2005).

[6] Margo Gardner & Laurence Steinberg, *Peer Influence on Risk Taking, Risk Preference, and Risky Decision Making in Adolescence and Adulthood: An Experimental Study*, 41 Developmental Psychol. 625 (2005); O'Brien et al., *Adolescents Prefer More Immediate Rewards when in the Presence of Their Peers*, 21 J. Res. On Adolescence, 747 (2011); Jason Chein et al., *Peers Increase Adolescent Risk Taking by Enhancing Activity in the Brain's Reward Circuitry*, 14 Developmental Sci.F1 (2011).

[7] *See*, Laurence Steinberg and Amanda Sheffield Morris, "Adolescent Development," *Journal of Cognitive Education and Psychology*, Volume 2, Number 1, 2001, pp. 55-87(33)

Confinement of status offenders hurts children without creating any benefit for society. By passing this Bill, the Council can solve this dual problem. This Bill, by removing youth who are only "in need of supervision" from the list of those who may legally be detained by the court, reflects a developmentally-appropriate approach to addressing the behaviors of these children. Nationally, there is bipartisan agreement on this as a necessary reform. The federal Juvenile Justice and Delinquency Prevention Act (JJDPA) has had the deincarceration of status offenders as a core principle since 1974. While the Act was amended in 1984 to allow for the incarceration of youth who do not comply with court orders while under supervision in a status offense case, this exception has roundly been criticized as a misguided derogation of judicial responsibility to address the issues that lead to status offending. It is a demand for compliance, rather than problem solving. Eliminating this exception has been a major focus of bipartisan reform in Congress as it considers reauthorizing that Act.[8] Bipartisan action is also changing this practice at the state level. States such as Wyoming[9], Idaho,[10] and Indiana,[11] are examples of those with statutory provisions prohibiting the incarceration of status offenders. At least 25 states prohibit such incarceration by law or practice.[12] While, in practice, the detention of status offenders in the District does not occur at levels seen in other states, it, unfortunately, remains a legal option. Passing this Bill would change that.

Not only is this good policy, it is good practice. Addressing, in a community setting, the underlying issues leading to status offending behavior, without the deviancy training inherent with incarceration, makes the community safer. Locking up a child who skips school fails to set that child on the right path and lays the foundation for more undesirable behavior in the future. Our youth and our communities deserve better.

Strengthening the Presumptions against Pretrial Detention of Youth in Delinquency Matters

Many of these same harms of incarceration translate to youth in delinquency matters as well. That is why this Bill's strengthening of the presumptions against pretrial detention in delinquency cases, and the elimination of rebuttable presumptions that favor detention for youth accused of certain delinquent offenses, is also in line with national best practices. The changes proposed in this Bill do not eliminate pretrial detention as an option. Instead, they define and limit when pretrial detention is allowable and place the burden back on the government to show that detention is last remaining option to ensure the safety of the child or the community. Our country was founded on principles like "innocent until proven guilty" and the requirement that the state bear the burden of proof before someone's liberty can be taken away. Yet, the current presumptions in favor of detention for certain allegations—not convictions—place the burden on our city's children to prove they deserve liberty. As a purely American ideal, returning the

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[8] Sen. Tom Cotton (R – AR) is currently the sole Senate vote prohibiting full consideration of the JJDPA reauthorization because he believes jail can be appropriate for status offenders. *See* http://jjie.org/lawmakers-hope-to-bring-jjdpa-to-senate-floor-again/193948/

[9] Wyo. Stat. Ann. § 7-1-108(a).

[10] Idaho Code Ann. § 20-519B(7)(a)

[11] *W.R.S. v. State*, 759 N.E.2d 1121, 1123 (Ind. Ct. App. 2001) (citing Ind. Code §§ 31-37-7-1 to -2, 31-37-19-1, 31-37-19-6).

[12] Hornberger, N. G., "Improving Outcomes for Status Offenders in the JJDPA Reauthorization." Juvenile and Family Justice Today, p. 16 (Summer 2010). Reno, NV: National Council of Juvenile and Family Court Judges. *Available at*: http://www.juvjustice.org/media/announcements/announcement_link_156.pdf.

burden back to the government is the right thing to do for all people in our justice system; when talking about youth who risk greater harm in detention, it is imperative we make this change.

States across the country have placed similar limits on which children may be detained—in several cases going further than the Bill this Council is considering. For example, in 2007, Texas passed a law prohibiting the incarceration of youth in state facilities for non-felonies, regardless of the child's history. A recent study by the Center for State Governments shows that since that law has been implemented, recidivism in Texas has not increased.[13] Community safety has not gone down, but youth exposure to the potential harms of detention certainly has. States like Nevada[14] and Kansas [15] have also implemented strict restrictions on incarceration of youth in juvenile matters.

Provisions Calling for the Humane Treatment of Youth in Facilities Are in Line with National Best Practices, Developmental Science, and Fundamental Decency

As the old adage goes, you can judge a society by the way it treats its prisoners. And the current way our law allows child prisoners to be treated in the District of Columbia does not say much about us. Yet, this Bill aims to change some of that and restore a level of humane treatment to our children in three very important ways.

Restricting the Use of Solitary Confinement

The United Nations Special Rapporteur on Torture has called the use of solitary confinement on prisoners in the United States tantamount to torture.[16] With regard to children, this practice can irreparably damage their developing psyches.[17] While a common argument against legislation restricting the use of solitary confinement is a claimed need to maintain safety and discipline, that does not justify damaging children. If parents were to keep their children in the conditions that mimic juvenile solitary confinement, they would face abuse and neglect charges. Yet the District law allows juvenile facilities to engage in this practice with little or no regulation. The question before this Council is whether submitting youth to the inhumane practice of juvenile solitary confinement—regardless of what they may have done—is acceptable. If not, passing this Bill will put common-sense limits, grounded in national best practice, into place.

Limiting the Use of Shackles on Youth

This Bill also squarely addresses the nation's growing recognition of the harms of automatic youth shackling. Nothing in this Bill eliminates the use of shackles on youth when there is an individualized and demonstrable need to ensure safety or prevent flight. When neither of those is meaningfully present, however, the justification for using such a recognizably harmful practice becomes indefensible. The District, along with 25 states, has already banned the automatic use of

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[13] *See* Tony Fabelo, et. al. *Closer to Home: An Analysis of the State and Local Impact of the Texas Juvenile Justice Reforms*, Counsel of Statue Governments & Public Policy Research Institute, Texas A&M University (2015).

[14] Nev. Rev. Stat. § 62E.510 (2015) (prohibiting commitment of delinquent youth younger than 12);

[15] Kansas S.B. 367, signed by the governor on April 11, 2016 and which takes effect on July 1, 2016, (removing juvenile misdemeanor adjudications as ground for commitment to the state's Department of Corrections) available at: http://www.kslegislature.org/li/b2015_16/measures/documents/sb367_00_0000.pdf

[16] Anti-Torture Initiative, "The Special Rapporteur's Thematic Report and Follow-up on Solitary Confinement," available at: http://antitorture.org/new-solitary-confinement/

[17] Sandra Simkins, Mary Beyer, and Lisa Geis, *The Harmful Use of Isolation in Juvenile* Facilities, 38 Wash. U. J.L. & Pol'y 241, 253-61 (2012).

shackling in the courtroom,[18] because of the overwhelming agreement by doctors, psychologist, and juvenile justice specialists that shackling can cause lasting harm on the developing psyche of youth.[19] But these harms do not go away outside of the courtroom. By passing this Bill, the District of Columbia will become a national leader in recognizing that harmful practices cannot be justified by expediency or some misguided notion of control. If it is to be used by the government, the government must justify its use with respect to an individual child and an individual security need. Without this clear and demonstrable need in each individual case, the very real risk shackling poses to children is just too great, regardless of the setting. Again, the question for this Council is whether any child can be subjected to this kind of state-sponsored harm without a real, identifiable, and individualized need to justify the damage it can cause. Passing this Bill will put common-sense limits, grounded in science and best practice, into place that protect youth without negatively impacting security.

Prohibiting the Placement of Youth in Adult Facilities

Charging a child as an adult does not automatically transform that child into an adult. He does not suddenly become more cognitively developed because a prosecutor has deemed the allegation more severe or a court has found the facts to be more egregious. The child remains a child, with all of the psychological and physical deficits that make him more vulnerable to sexual and physical abuse.[20] Moreover, even the most serious offenders, given their developmental status, have the capacity for growth and rehabilitation if provided with the right services or the care of trained juvenile specialists. This is something both science and the Supreme Court regularly affirm.[21] Youth placed in the District's adult detention facilities simply are not going to receive that kind of treatment. Given that these youth will eventually be released back into the community, we owe it to our communities to make every possible attempt to promote as healthy a development as possible.

Moreover, it is a misconception that only the youth accused of the most serious crimes face adult jail time. I can tell you from personal experience, this is not the case. District law treats youth over 16 who are charged with traffic offenses as adults. Several traffic offenses carry the possibility of jail time. I have had a client sentenced to time in D.C. Jail by a judge seeking to "teach him a lesson" on a reckless driving charge. If the lesson was to break my client, I can tell you the judge succeeded. I will never forget my visits with this young man while he was in jail and witnessing the clear trauma that experience inflicted upon him.

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[18] *See* http://njdc.info/wp-content/uploads/2015/11/where-are-there-statewide-bans-11-2-15.pdf (identifying 23 states as of Nov 2015). The Tennessee Supreme Court past a rule limiting the practice on Dec. 29, 2015 (*see* http://www.tncourts.gov/sites/default/files/order_amending_tn_rules_of_juvenile_procedure_-_rule_204.pdf) and the Ohio Supreme Court issued an administrative order in March 2016 (*see* http://www.courtnewsohio.gov/happening/2016/ruleAmendJuvenileRestraint_032816.asp#.V0dGQdIrLct).

[19] For a list of professional affidavits detailing the harms of shackling youth and for a list of national organizations who have passed policy statements or resolutions against indiscriminate shackling, please visit NJDC's website at http://njdc.info/campaign-against-indiscriminate-juvenile-shackling/

[20] National Prison Rape Elimination Commission, Report 18 (June 2009), finding "More than any other group of incarcerated persons, youth incarcerated with adults are probably at the highest risk for sexual abuse." *Available at*: http://www.ncjrs.gov/pdffiles1/226680.pdf.

[21] *See generally, Roper v Simmons*, 543 U.S. 551 (2005); *Graham v. Florida*, 130 S.Ct. 2011 (2010); *J.D.B. v. North Carolina*, 564 U.S. 261 (2011); *Miller v. Alabama*, 32 S.Ct. 2455 (2012); and *Montgomery v. Louisiana*, 577 U.S. ___ (2016).

Once again, the question for this Council is whether any child can be justifiable subjected to this kind of harm without real and identifiable need. If not, passing this Bill will put common-sense limits, grounded in science and best practice, into place.

Recognition of Age-Appropriate Sentencing Is Supported by Developmental Research and National Best Practices

The United States Supreme Court, in a quintet of decisions over the past decade,[22] has made it abundantly clear that the law must reflect what science has demonstrated—youth are less culpable for their actions, and thus less deserving of harsher punishment, because they are immature by nature, take greater risks, are more susceptible to peer pressure, and are in a state of progressive development that makes their poor behavior characteristically short-lived.[23] Because youth "often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them,"[24] any penalty "when imposed on a teenager, as compared to an older person, is therefore 'the same ... in name only.'"[25] But we did not need the Supreme Court to tell us this; it is common sense. This is the entire reason we have created a separate juvenile court system premised on rehabilitation.

For these reasons, the Bill's provision that prohibits the commitment of children under the age of ten is both developmentally-appropriate and rooted in national best practices. Studies in child and adolescent development show that two of the key areas of development relating to a child's decision-making—the child's cognitive and psychosocial capacities—do not typically begin to develop in meaningful ways until approximately age ten or eleven.[26] As such, children younger than this do not have the developmental capacity to make meaningful decisions about, or understand the consequence of, their behavior. Despite this, only eleven states prohibit the prosecution of youth under age ten,[27] and only ten others prohibit prosecution of youth at some age younger than ten.[28] Despite the clear science, the District of Columbia is not among the jurisdictions that recognize any minimum age of prosecution. While this Bill would not address that short-coming, at a minimum, the District would be recognizing that children under ten should not be committed and face the possibility of long-term incarceration for their offenses. This is also in line with the official policy of the National Partnership for Juvenile Services, which opposes the placement of youth ages *eleven* and under in detention. This organization, which represents juvenile corrections and treatment providers, recognizes that children of this

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[22] Id.

[23] *Roper v Simmons,* 543 U.S. 551, 569-70 (2005)

[24] *J.D.B. v. North Carolina*, 564 U.S. 261, 272 (2011)

[25] *Miller v. Alabama*, 32 S.Ct. 2455, 2466 (2012)

[26] Laurence Steinberg, *Adolescent Development and Juvenile Justice,* 5 Ann. Rev. Clinical Psychol. 47 (2009); *See also* Daniel P. Keating, *Cognitive and Brain Development,* in Handbook of Adolescent Psychology 45 (R Lerner, L Steinberg eds., 2d ed. 2004). *See generally* Deanna Kuhn, *Adolescent Thinking, in* Handbook of Adolescent Psychology 152 (R Lerner, L Steinberg eds., 3d ed. 2009).

[27] These are Arkansas, Colorado, Kansas, Louisiana, Minnesota, Mississippi, Pennsylvania, South Dakota, Texas, Vermont, Wisconsin, and the territory of American Samoa.

[28] Arizona, Nevada, Washington, prohibit prosecution for those under 8; Connecticut, Maryland, Massachusetts and New York prohibit prosecution under the age of 7; and North Carolina sets the limit at age 6.

age have unique needs that confinement cannot adequately address, which can cause programmatic, safety, and security issues within detention facilities.[29]

Until this Council is ready to prohibit the prosecution of youth who science tells are too young to be responsible for or understand the consequences of their offending behaviors, passing this Bill will, at a minimum, ensure that they not placed into a confinement system that is incapable of properly caring for them.

Conclusion

NJDC appreciates the opportunity to provide comment on these critical issues affecting the youth of the District. Many of the provisions in this Bill go a long way toward reforming the District's Juvenile Code to reflect a greater appreciation of developmentally-appropriate juvenile justice. Passage of individual portions of this Bill would place the District of Columbia alongside many states that have enacted developmentally-appropriate changes to their juvenile code, while, as a whole, passage of this wide-ranging Bill would position the District as one of a handful of national leaders instituting comprehensive reforms.

I thank the members of the Committee for your time, and I am happy to answer any questions you may have.

Respectfully submitted,

Tim Curry
Director of Training and Technical Assistance
National Juvenile Defender Center

[29] National Partnership for Juvenile Services, *Position Statement: Placement and Treatment of Pre-Adolescents in a Detention Facility*, adopted October 2011, available at: http://npjs.org.previewdns.com/wp-content/uploads/2012/12/NPJS-Placement-and-Treatment.pdf.

Brittney Williams

202-714-3995

BILL 21-0683

'THE COMPREHENSIVE YOUTH JUSTICE AND AMENDMENT ACT OF 2016'

My name is Brittney Williams and I support "The Comprehensive Youth Justice and Amendment Act of 2016". I myself, hold a bachelor's degree in Criminal Justice from Trinity Washington University, I'm also a certified paralegal in Washington, DC. I believe that "The Comprehensive Youth Justice and Amendment Act of 2016" is the appropriate measure of action we as a community should take in order to help juveniles benefit from their time incarnated. I support due to the fact that my personal goal in life is to become a juvenile Probation officer, and I believe that longer sentences will not help a juvenile but hinder them.

I have witnessed firsthand how "The Comprehensive Youth Justice and Amendment Act of 2016" will help juveniles and their sentencing. I have a best friend D. Rogers who was found guilty in 2008 of 1st degree murder charge and sentenced to 32 years at the age of 16 years old. He is also a loving father of his seven year old son. D. Rogers has been placed in facilities such as Oak Hill, YSC, transferring to DC Jail, and after sentencing being transfer from WV, to TX, and PA. My opinion on this issue is personal; to sentence a 16 year old to 32 years in prison is absurd. By supporting "The Comprehensive Youth Justice and Amendment Act of 2016" I believe this will give juveniles a chance at life, to compound a juvenile in a penitentiary for that long of a sentence will only hinder them from becoming successful adults in life. I look at the way the world is changing technology, education, and job requirements, etc. Placing juveniles in these facilities will not prepare them for the necessary skills they need in this changing atmosphere. By confining them to a prison this will create for a broader range of issues in the long run, such as homelessness, unemployment rate, and poverty within our own

community. My best friend D. Rogers has gained the borderline fundamentals he needs to prepare himself for life such as receiving his GED, and passing the necessary CDL classes. We can limit these characteristics by making this small step here and passing "The Comprehensive Youth Justice and Amendment Act of 2016"

Nicole Calhoun
3280 Patapsco Pl #5203
Waldorf, MD 20601
May 27th, 2016

Councilmembers
The Committee on the Judiciary
1350 Pennsylvania Ave. NW
Washington, DC 20004
Re: Judiciary Public Hearing on B21-0683 "Comprehensive Youth Justice Amendment Act of 2016"

Dear Councilmembers:

My name is Nicole Calhoun. I'm writing to you today because my fiancé and I just found out about this hearing to amend some of the juvenile laws and harsh sentencing. I would like to be a voice for my fiancé and I to hopefully have this amendment retroactive.

I am not a residence of DC but my fiancé, Richard Bracey #04517-000 is currently incarcerated at USP Lee. He was convicted for murder when he was 17 years old back in 1994. He was given a sentence of 48 years to life, mandatory 35. He has now served 23 years. I wanted to tell you about him and the progress he has made since growing up in the federal system. He was a typical 17 year old who thought he knew everything and nobody couldn't tell him different. He wanted the fast life and fast money. He made some poor decisions, like most of us at that age, and suffered the consequences. Once he went to prison, his life changed. The first couple of years it was an adjustment. He figured he could be a part of the system or better himself for the future. He received his GED on the first time he took the test. He has taken many other classes throughout the years such as Personal Training, CDL, Parenting class, Psychology, and now he is going to start the HVAC Apprentice course at USP Lee.

My point of all this is as a juvenile, Mr. Bracey didn't understand the concept of future goals and lifelong dreams. He was forced at an early age to grow up with other grown men in an environment that could have eaten him alive or turned him into a harder criminal. He chose to do the right thing. He is now 39 with long term goals and with the support of me, his future wife, his step-son, his mom, grandmom, sisters, brothers and other relatives, he has a chance at excellence and to be the upstanding citizen that the justice system is supposed to strive for after incarceration. Rehabilitation for him and

many juveniles is what we want correct? It only took him a few years to get himself together and become the great man he is today. He has served 23 years and I know he has benefited from this time.

In closing I ask that you make this amendment retroactive for all juvenile offenders who are serving these long sentences. Give them a chance to prove their maturity and accomplishments to a parole board sooner that what the law says now. The offenders and the families of the offenders would greatly appreciate the opportunity.

Sincerely,

Nicole Calhoun

Loving mother and soon to be wife

Subject: Fwd: A Letter From Marion James Crawford mcrawford7007@emailinterface.org

From: Octavia Wilson (octaviawilson1@aol.com)

To: streetermills@yahoo.com;

Date: Thursday, May 26, 2016 9:06 PM

Octavia Wilson
octaviawilson1@aol.com

----Original Message----
From: Octavia Wilson <octaviawilson1@aol.com>
To: dwade <dwade@dccouncil.com>; dwade <dwade@dccouncil.us>; pmendelson <pmendelson@dccouncil.us>
Sent: Thu, May 26, 2016 8:58 pm
Subject: A Letter From Marion James Crawford mcrawford7007@emailinterface.org

Hello Everyone,

This is Marion James Crawford, Case number 1997- fel - 266. I'm 36 years old I have been in the penitentiary since I was 16 years old, for a crime I'm extremely ashamed of (First Degree Murder) which derived me from effecting my community with illegal drugs. To be perfectly honest with you I did not feel any remorse or shame until I was in my early 20's. I was at Sussex 2 State Prison on lock down for 24 hours a day. I had a older cell mate for almost two years, he told me what I needed to hear. He said "Marion the crime you committed and the drugs you sold to your community was something you did but it's not who you truly are, and the proof is no child is born corrupt they become corrupt." "No parent encourages their kids to commit crimes against their community, with that being said when you was younger you had dreams of being a fireman which is more proof that you became corrupt." "Firemen are selfless, brave,and most of all he helps and contributes to society. The things you did is the total opposite of the dreams you had sense you was 6 years old, somewhere along the way you tricked your mind into believing what you was doing was okay", which I agree with them. I thought my criminal behavior was okay. He said "You can still be that fireman some day Marion", with a smile on his face. That's when I looked at him with a confused look on my face, I said "Anthony that's impossible, I'm going to die in prison." He said "Being selfless, brave and most importantly of all helping people, you still can be all them things one day. You just have to make a conscious effort to give up your criminal thinking and behavior on a daily basis." My cell mate helped me change my life more than he will ever know. He introduced me to educational .T.V shows, Books, and The Art of Leather Crafting when we both was transferred to USP Lee County. At this point in my life, I'm more Informed, Intelligent, and fully understand the purpose of Law and Order, because without it there is NO civilization. You can not have one without the other, what we will have is a world of Chaos and that is Unacceptable. As human beings we are better than that, with that being said, I'm truly sorry for breaking our laws and contributing to the destruction of our community. I swear on my mother (Evelyn Johnson's) health and happiness, that I will continue to do the right thing and hold myself to a higher standard. You saved me once, now I ask that you save me twice, and don't forget about the juvenile's who have been enduring this great punishment, serving 35 years to life, 30 mandatory life sentences, and as for myself, I learned my lesson the hard way, but never the less I learned.

Thank you for your time and

patience,

Marion James Crawford FBOP

12097-007 FCI Gilmer

mcrawford7007@emailinterface.org

Subject: The letter

From: Sabino Johnson (dmvcannon@gmail.com)

To: Streetermills@yahoo.com;

Date: Thursday, May 26, 2016 2:29 PM

Hello everyone. My name is Sabino Mario Johnson. I'm writing a letter on behalf of my brother Marion James Crawford and regarding the bill, B21-0683 the comprehensive youth justice. My brother has been incarcerated since I was 8 years old for a mistake. It's been hard on my family and in particularly myself. I'm 28 now and we have a sister which is 22 years of age. For myself it's been hard growing up without a male role model considering all our fathers are deceased. Not having anyone here to teach me how to do certain things and what mistakes not to make as a man. Being under a lot of pressure since a child because of life and obstacles it presents I have to deal with. I would like my brother to have a second chance at life. My brother has grown so much and I feel he will help society and make the world a better place. I believe his story can change people's lives. With the time he has served he's grown as a person and made huge steps in ways I couldn't imagine or possibly do in his situation. I believe the system has done its job by taking him and rehabilitating his mind and turned his negative into a positive. With the things he's been able conquer I believe it would be beneficial for the youth and society in general. From him being able to work in a handcrafted leather shop and make material behind a wall amazes me. He's been attending and finishing school, Glenville state college 00065581 making the most of his life from behind a wall. I believe it has served its purpose and considering he's serving a De facto life sentence, 35 years to life could be harsh for a child who was just 16 years of age committing a crime. I talk to my brother as much as possible and his spirit is high. His desire to do better in life is better than a lot of people I know out here in this world. We can make a big contribution to society. Our mom is older now and she's been waiting and praying for this oppurtinity. Her health isn't the same it was before 20 years ago. It's been hard on her body to make the trips for visits. A lot of things has changed with time and some for the better and some for the worst. We hope you all find it in your hearts to give him and not just him but every man who's trying to do better in this situation a second chance. I'd like to thank you for the time and I hope this message will be read with an open heart and mind. God bless

In Support of B21-0683

Hello Mr. Wade,

My name is Tony Johnson; I am the Uncle to Marion James Crawford whom is currently incarcerated at Glenville, West VA. Facility. I am writing this letter on behalf of Marion regarding the comprehensive youth justice Bill (B21-0683) in hopes of him and the other juveniles possibly receiving an early release from prison and a second opportunity at freedom.

First, I would like to share with you our family background and Marion's upbringing. As the Uncle, I failed miserably with raising him to be a productive citizen. I got caught up using drugs and alcohol at a young age with my so call friends and lived in a bad neighborhood. I didn't take the time to spend with my Nephew. It took Marion getting arrested (which was his first and only arrest) and sentence to life that I realize I needed to changed my life so that I could help him and my other nieces and nephews as well as my own children to succeed.

Since Marion's 20 years of incarceration, I have now been in the Federal Government for 25 years and have worked my way up the ladder to an Supervisor, which I supervise 25 employees at Food Drug Administration. I have gotten married and purchase a home in the suburbs, but most of all the accomplishments that I am proud of I am drug and alcohol free. I feel with my positive structure that I now have, this would help Marion to continue with his positive outlook on his life and do great things if giving another opportunity at life.

Marion's incarceration has taken a tremendous toll on his Mom as well as the Family. We all are suffering and would like very much to see him get an early release.

Marion made a terrible mistake in his early life due to peer pressure and lack of support from the family. We lost him to the streets and he has paid a heavy price as well as the family for his action.

Marion has done everything possible to change his life around since he's been incarcerated. Marion has received his GED and is currently enrolled in Glenville State College. Marion is working on receiving his Associate Degree. He also worked at a leather shop and became very skilled at making women purses,

backpacks and wallets. This is amazing considering the circumstances and obstacles that he had to overcome. I can only imagine what this young man would further accomplish if giving another chance.

Marion also has a good business plan in place in case he is release early from prison. His business plan includes; locating a vacant space and starting a leather shop where he would continue his craft. This is his passion and the family fully supports his goals and mission.

Mr. Wade, thank you for taking the time to read this letter. I apologize for not being the best writer, but hopefully, you can understand the love we have for Marion.

Please consider his early release as well as the other juveniles. I will guarantee this would not be a mistake. He had 20 years to think about the terrible mistake he made at the age of 16 and also the family is no longer on drugs and alcohol or lives in neighborhoods infested with drugs, open air markets, criminals and addicts.

Please feel free to contact me should you need or have any questions about Marion or myself. My cell number is: 301-257-8764. My email is: turnjohn@yahoo.com

Thanks again Mr. Wade!

Gmail

Victoria Vance <victoria.vance.vv@gmail.com>

Statement in Support of Comprehensive Youth Justice Amendment

1 message

Victoria Vance <victoria.vance.vv@gmail.com> Fri, May 27, 2016 at 4:39 PM
To: dwade@dccouncil.com, dwade@dccouncil.us

To Whom It May Concern,

I Mrs Victoria Wright am writing you on behalf of my best friend's child, Mr Marion J Crawford . I support the B21-0683 Comprehensive Youth Justice Amendment Act 2016". I have known Marion since he was born. Marion was a dream child and a very smart and a man who love his family. His mother has always been one of the best loving mothers any mom could be. And no matter what hick ups came in her life ... she picked up the pieces and took wonderful care of her kids. Its a really sad thing when all your kids dads passed away and you are a single parent. We had some tremendous trials and tribulations and through the grace of God, we made it. She grieved but preserved on doing the very best she could . I know Evelyn well and she is connected to my heart. She has greived for he child since the day he left . Marion had a grand-mommy that adored him and I know she looks over him from heaven. He comes from a very good foundation . He has amazing siblings that live to reunited with him. I thank God for the Strength to have been able to communicate with him for these 20 years; it's a blessing. Marion has persevered and worked wonders in prison. I have never known him to not have a productive use of his time while incarcerated. He has obtained his GED and he makes outstanding wallets and briefcases. In addition, he has taken college courses. I would have to say his work is amazing . He has showed us a rehabilitate man . In all areas , he has all ways been a mature child . I would ask that if u could find it in your heart to let him be reunited with his family. Marion is a very business minded . I believe he will be a much needed contribution to society and his siblings and mother would be complete with him home. His mom has been without him for 20 years, and I think he has paid his debt to society. Everyone deserves a second chance. He has a lot to offer and i think he would be and amazing youth counselor . With his family nearby, he will have an amazing support group with open arms.

Thank you for your time and consideration.

Sincerely,
Mrs. Victoria Wright

Subject: Fwd: Support Letter for Marion Crawford

From: Sasha Vance (triplear3@gmail.com)

To: streetermills@yahoo.com;

Date: Thursday, May 26, 2016 5:22 PM

Sent from my iPhone

Begin forwarded message:

From: "Vance, Sasha" <Sasha.Vance@dcsc.gov>
Date: May 26, 2016 at 5:04:15 PM EDT
To: "triplear3@gmaIL.COM" <triplear3@gmaIL.COM>
Subject: Support Letter for Marion Crawford

Good day.

My name is Sasha Vance. I am writing this letter on behalf of Marion Crawford and to Support B21-0683" Comprehensive Youth Justice Amendment Act.". I am like a sister to Devon as I call him. I never know life without him because we were born so close in time. Blood couldn't make us any closer. Devon has always been a very pleasant person with a beautiful personality. He is a very loving man who love his family unconditional. He has provided mental support to me with kind words of encouragement although he's in out here with me. He have two biological siblings that miss him dearly. I love and miss him as well. Nothing would please me no more then to see me brother out here enjoying life with us. I know he was grown and learned from any mistakes that he's accused of. He deserve a change to be out and be great. Please take this letter into consideration in knowing that Marion Crawford (Devon) deserves a change of freedom. Also, I breaks my heart that my children never got to meet him in person yet. He deserves a fair chance it life outside of prison. Blessings.

Thanks,

SaSha N. Vance

Testimony of Mai Fernandez

Executive Director of

The National Center for Victims of Crime

Before D.C. Council Committee on the Judiciary

On the Comprehensive Youth Justice Amendment Act of 2016

June 2, 2016

Good Afternoon Chairman McDuffie and members of the Judiciary. My name is Mai Fernandez and I am the Executive Director of the National Center for Victims of Crime. I am here to support the Comprehensive Youth Justice Amendment Act of 2016 with the stipulation that the Council take into consideration the needs of victims when it comes to these kinds of juvenile justice reforms.

About a year and a half ago the National Center, with assistance from the Annie E. Casey Foundation put together a victim's roundtable on juvenile justice reform. We invited D.C. victims' organizations as well local juvenile justice reform groups to come together for a conversation on how both sectors could work together to

create a better community. What we found during the roundtable was that these groups shared more common ground than disagreements

Both groups acknowledged the need for: effective rehabilitation services for juveniles; strong mental health services for youth particularly those that have been abused and neglected; community based alternatives that meet the needs of both victims and juveniles; an urgency for increased housing options for families and youth; and opportunities for community building for victims and juveniles.

The advocates in the group raised a number of important issues that would increase the confidence of victims and communities that juvenile reforms work for all effected by crime. The issues included: improved victim participation in the system; better victim notification regarding proceedings; meaningful opportunities to provide victim impact statements; a reduction in court continuances; assistance in the immediate aftermath of crime; increased community safety; and better access to victim compensation and restitution.

Below is a summary of the roundtable proceedings. Thank you for allowing me to testify and I am available for questions.

Introduction

The issue of juvenile justice reform is being taken up nationwide. One of the leading efforts is the Juvenile Detention Alternatives Initiative (JDAI), a collaborative effort between members of the juvenile justice system and local communities. JDAI works to create an effective system for improving outcomes for both youth and the community, with a goal of eliminating unnecessary and inappropriate use of secure detention for juveniles.

JDAI and other juvenile justice reform efforts include many partners in its collaborative process, but by and large have not included crime victims and their advocates. Victims are also members of the local communities working on reform, and many victims know the juveniles who have offended against them. Many juveniles who have committed crimes have themselves been victims. Thus, the voices of victims and advocates can be important to juvenile justice reform.

To explore and build upon common ground between advocates for victims and juvenile justice reform, the

Annie E. Casey Foundation hosted a national roundtable to bring together representatives from both communities. At this roundtable, victim advocates expressed a desire for victim safety and the knowledge that the juveniles in the system were being rehabilitated successfully. Victims also shared that receiving an apology from the juvenile was critical to the healing process. However, a youth could be in the system for years and may never have an opportunity to apologize. In addition to an apology, victims stated they wanted their property back, to feel safe in their community, and assurances that what happened to them would not reoccur, more than they wanted the young person incarcerated.

This fruitful discussion at the national level led to an interest in exploring similar common ground at the local level. Therefore, the National Center for Victims of Crime and the Annie E. Casey Foundation scheduled roundtables at JDAI deep end sites—jurisdictions working to address juvenile justice reform at the dispositional end to safely reduce incarceration. The first roundtable was held in Jefferson Parish, Louisiana, followed by roundtables in Toledo, Ohio, and St. Louis, Missouri. Although each jurisdiction had unique local issues, victim advocates there echoed many of the same sentiments as those who

participated at the national level—specifically, that victims are not primarily interested in incarceration of juveniles. They expressed a similar desire for apologies, safety, and rehabilitation of young people.

In December 2014, a roundtable was convened in Washington, D.C., with the goal of increasing connections between system stakeholders and victim advocates and determining how these groups could better work together.

Shared interests

The roundtable discussion revealed that, in the District of Columbia, the interests of juvenile justice reformers and victims advocates intersect in many key areas, including support for strong rehabilitation services for juveniles, effective mental health services for victims, increased housing options, and community-based alternatives to incarceration.

Strong, effective rehabilitation services for juveniles

Juvenile reformers and victims share an interest in effective rehabilitation services for juveniles. Many victims of juvenile crime do not seek a particular length of incarceration. Rather, their main concern is that the juvenile get appropriate treatment for rehabilitation. One

panelist noted that, as part of their impact statement given to the court at disposition, many victims request that the juvenile receive treatment for underlying issues such as substance abuse, mental health issues, or other care they may need. Knowing that good quality rehabilitation services are being provided are important for victims' feelings of safety, and for their concern for the well-being of the youth.

Juvenile justice reformers have a strong interest in effective rehabilitation services, but roundtable participants note that existing services in the District are not always provided by effective, well-run programs. Too many programs have poor case managers. For reform to fully thrive, there must also be a focus on personal accountability among those adults who work with juveniles. Participants recounted instances where adults failed to keep meetings, meet deadlines for assessments or other milestones, or follow-through on program requirements.

Another barrier to rehabilitative services is that they may be located only in certain areas. Neighborhood rivalries exist that deter youth from accessing services if they are

located in a particular neighborhood, forcing potential clients to choose between treatment and their safety.

Juvenile justice advocates noted another reform complication unique to the District of Columbia. Most youth in the juvenile system are on probation and ordered to receive rehabilitative services, but in DC the probation department is a federal agency. Thus, while local advocates can pass laws relating to the Department of Youth Rehabilitation Services, they are reliant on Congress to change laws relating to probation in the District. Local advocates are able to try to work with probation administrators, providing models and suggestions, but are less able to influence congressional action. Roundtable participants did recognize that now may be a prime time for advocacy in Congress, as juvenile justice reform continues to attract national attention.

Strong, effective mental health services for children and youth, including victims of abuse and neglect

Another key issue facing the D.C. area is the availability and quality of therapy services, especially for children. A 2009-10 Rand study assessed the mental health needs of D.C. and found that there were 17,000 youth in the area

with mental health issues who were not getting services. Many of these youth have been exposed to violence, or have been the direct victims of violence, whether in the home or in the community, and require trauma-focused treatment. Many others have been victims of chronic neglect. Many of these young victims of violence or other traumas become involved in the District's juvenile justice system. As an illustration, a roundtable participant from a child victim program stated that they view young sex offenders as youth that have been previously victimized.

The issue of mental health services in D.C. is one of both capacity and quality. Ninety percent of youth in D.C. are insured by three Medicaid Managed Care Organizations (MCOs). Because of the structure of these MCOs, it is difficult for clients to obtain providers outside of the MCO network; however, few within the network are trauma-focused and able to provide the type of service needed by these children and youth. Other organizations offering trauma-focused treatments find it difficult to obtain a provider number to receive payment from the MCO—therefore, they are reliant upon grant funding to reach and serve young DC residents.

Crime victim compensation in the District will fund therapy, but compensation for mental health treatment in the District is limited to $6,000 for children and $3,000. The program does not usually allow for the compounding of funds if a victim has experienced multiple crimes.

Other, practical barriers exist for children and youth seeking mental health services. Children face a limited window of availability for receiving services outside of school hours—approximately 4 to 8 pm. Transportation may be an issue; if transportation exists, families may not be able to afford the costs, and such costs are not covered by Medicaid. There is often a stigma associated with mental health services, particularly for young men. And, as with other services, neighborhood rivalries may deter some youth from attending sessions in certain locations.

Additionally, many traumatized youth lack the mastery of language necessary to articulate their feelings; different modalities of therapy must be utilized to accommodate them. Play therapy, identified by the panel as an effective medium for youth, is currently available at only one freestanding clinic in the area—the Wendt Center. Other suggestions included more activity-based therapy and trauma-focused therapy. And there can be reluctance to

address trauma in children, as the natural inclination is to focus on positives.

The practical barriers to identifying and paying for counseling, getting appointments that fits the family's schedule and finding transportation to reach those appointments often mean that the only clients who receive services are those with organized caregivers who have the time, energy, and resources to aggressively focus on obtaining treatment.

Increased housing options for families and youth
Housing was a major issue identified by both victim advocates and juvenile justice reformers. There is a severe and growing lack of affordable housing in the District of Columbia.

The lack of affordable housing prevents victims from seeking a safe, secure environment for themselves and their families. Victims often lose their sense of security in their home communities, especially if their case is not prosecuted or the juvenile returns back into the community from incarceration. The juvenile may even return to the same school or home as the victim. In cases with multiple offenders, the justice system may remove some from the community, but others may avoid

apprehension, remain in the community, and continue to threaten victims. In cases of child sexual abuse, there may be insufficient evidence to charge anyone, so the victim remains exposed to the perpetrator in the neighborhood or school. Relocation by the victim's family is rarely an option, due to the high cost of housing in the District. The cost of leaving the city entirely is also prohibitive for many families.

In the case of juveniles released from detention, the best release plan may not involve a return to their home after incarceration, but there are few alternatives.

The District also has a high number of homeless youth and families. While services for the homeless in general are overburdened, services for homeless youth are practically nonexistent. Homeless youth outnumber adults in the D.C. area, and regulations limit the housing available for youth without adult accompaniment. Many of these homeless youth are at risk of becoming victims or perpetrators.

Community-based alternatives that meet the needs of both victims and juveniles

Panelists explored the issue of how we can provide a space for community-based alternatives to incarceration

for juveniles. In addition to providing a beneficial alternative to incarceration for juveniles in the system, community-based alternatives can also serve the interests of victims. Mediation programs can be very helpful in fostering victims' healing. Especially in situations with non-violent crimes, victims may want the opportunity to talk to the juvenile and explain the impact of the crime. Juveniles may also benefit from this opportunity to build empathy by acknowledging the impact of their actions on others. Many youth feel burdened by guilt and remorse and welcome an opportunity to express those feelings.

Reform advocates also noted that community-based programs, which emphasize rehabilitation instead of incarceration, improve public safety in the long term. The most significant benefit of community-based alternatives may be their ability to reach the largest population of youth. While only a small percentage of kids are committed to institutions at any given time, the reach of community-based services is much larger.

Some panelists stated that restorative justice, while good in theory, is difficult to implement well in practice, as it is hard to make it comprehensive. Specifically, it can be difficult for a community to find the resources to uphold

public safety during the restorative justice process. Agencies work with both victims and juveniles in the justice system—sometimes within the same services or support group. Even if a victim is supportive of the juvenile's rehabilitation, liability issues can make it a challenge to assist both at once. Some organizations have come to the conclusion that they cannot support both victims and juveniles in the justice system without more community support.

The District has received grants in the past to help cultivate these alternatives, most notably grants for Balanced and Restorative Justice, but participants said they have had little lasting impact. In addition, juvenile justice advocates note that the adversarial court system is not helpful in fostering restorative justice. Many believe that, for restorative justice to be effective, it cannot just be a component of a larger system—it needs to comprise the whole system.

Funding is often raised as an obstacle to effective implementation of restorative justice practices. However, other panelists noted that available funds do exist within the system and perhaps these efforts could be successful if we gave them a meaningful opportunity to work. Out of

the $100 million received annually by DYRS, only $6.2 million is allotted for community-based alternatives. This ratio must be changed to give community-based programs the opportunity to succeed.

Alternative solutions are needed not only in the juvenile justice system, but also in the schools. Participants expressed the view that the D.C. school system does juveniles a disservice through an overreliance on expulsions and suspensions. Negative outcomes are associated with kids being out of school. These are the kids that need intervention the most, but they are excluded through compulsory absence, putting them at even greater risk of further delinquency or victimization.

Restorative justice could be an area of common ground and future collaboration between victim advocates and juvenile justice reformers. Victim advocates have an interest in improving community-based systems, which in turn provide rehabilitation for juveniles in the system who will later be returning to the community. More funding is needed to explore these alternatives—both sides can petition the city council for aid. Many times it is impossible to prevent a juvenile's first contact with the system. However, both victim advocates and juvenile

justice reformers can work to create a system that will prevent these youth from returning a second time.

Community-building for victims and juveniles

Throughout the panel discussion, the importance of community for both victims and juveniles in the system was emphasized. Community-building has a positive impact on public safety by supporting juvenile rehabilitation and victim healing. Additionally, strong communities monitor themselves—there have been cases where a community located offenders that the system did not.

Strong families are important to rehabilitation of juveniles. Participants stressed building family relationships and making families a part of the rehabilitative process. Families can help ensure that education will be interrupted as little as possible, and serve as a support network for when juveniles return to the community.

Strong communities also offer the potential to support victim healing. Many victims, in talking with their therapists, care less about the offender and more about the response of their families and the greater community. Families do not always know how to respond to victims in

appropriate ways. They may turn to victim-blaming or other unhelpful tactics, not out of lack of caring, but out of a lack of education. Education is even more vital to bringing out a compassionate response towards victims, because violence is often normalized in these communities. In certain areas of D.C., 100% of residents are polyvictims.

To better build communities, the system must also be cognizant and inclusive of D.C.'s diverse and underserved populations. When dealing with both victims and juveniles in the system, the unique needs of minority groups—such as teen parents, undocumented teens, youth with development disabilities, and LGBT kids—must be kept in mind. D.C. in particular has a large population of transgendered teens, who face specific issues, such as being misgendered in facilities.

Other issues raised

In addition to the parallel interests noted above, victim advocates raised a number of important issues that could strengthen the juvenile justice system—increasing the confidence that victims and communities have in the system and thus improving prospects for further reform. These include:

Improved victim participation in the system

Prior to 2005, victims' rights for juvenile crime were virtually non-existent in D.C. A victim did not have the right to attend hearings related to their case or receive any information about the juvenile's progress. A 2005 compromise with the city council has strengthened victims' rights, including provisions for victim notification. Victims are now able to attend some (but not all) hearings and bring a support person to accompany them.

Funding for victim services in juvenile proceedings continues to be an issue. The D.C. Office of the Attorney General, which prosecutes most juvenile offenses, does not receive strong funding for victim services. This poses real limitations to helping victims exercise their rights and to feel respected and heard during the justice process.

Providing victims with adequate information gives victims the support they need to trust the system. One roundtable participant reported a 400% increase in victims' willingness to report crimes once victims were connected with an attorney who could explain their rights and options. Providing such information can increase

victims' sense of safety and, in turn, their willingness to trust and engage with the system.

Victim Notification

Roundtable participants noted a number of areas where D.C. is still lacking in terms of victim notification. Even though a victim may be present at a hearing, access to the proceedings can be circumvented by the defense attorney practice of asking to approach the bench, thereby excluding the victim from meaningful participation. Panelists discussed that many victims want to know about the juvenile's rehabilitation and potential release for their own safety and wellbeing. While victims may be notified about whether the youth was committed or released on probation, and may be informed of the range of possible services that may be provided the youth, they are not routinely given any information about agency decisions or the juvenile's treatment. When victims speak at parole hearings, all they know is the state of the defendant at the time of the crime. They know nothing about whether they've gotten drug counseling, job training, education, or other rehabilitative treatment. Victims would benefit during parole hearings from greater access to information about the defendant's post-sentence history. This

knowledge could also lessen the victim's fear regarding the juvenile's release.

Victim Impact Statements

Providing victims with a voice in court greatly impacts how they view the fairness of the criminal justice process, yet opportunities to meaningfully participate remain limited. As a part of the 2005 reform law, victims in the District have the right to submit impact statements in juvenile proceedings, for consideration in sentencing and the development of the treatment plan. While the introduction of victim impact statements has been valuable, there is room for improvement here as well. Although many victims choose to submit impact statements, many decline because they doubt their statement will make a difference. Many victims request substance abuse treatment, mental health treatment, or education for the defendant as part of their impact statements, but never learn whether such treatment was ordered. Panelists discussed the possibility of increasing the information provided to the victim without compromising the privacy of the youth.

Continuances

Continuances present an additional problem—when a hearing is scheduled or postponed, the victim's schedule is not always taken into account. A number of laws from other jurisdictions could be used as a model for a new D.C. statute that would require the court to consider the interests of the victim when ruling on a motion to continue.

Assistance in the immediate aftermath of crime

Crime scene cleanup is another area where the system can better serve victims. A panelist shared a compelling story of a mother on her hands and knees cleaning up the blood of her third murdered son. Providing crime scene cleanup is a practical service that provides great relief to victims and survivors.

One hurdle to the crime scene cleanup process is funding. While crime victims' compensation might pay for the cleanup, such funding is only applied as a reimbursement—leaving the family to make arrangements and foot the bill up front at a time they are traumatized. The funding is subject to several limitations, including a determination that the victim did not contribute to the crime in any way. Also, crime victims' compensation is

only available when there are no other payment sources. Oftentimes, a landlord's insurance should pay for the cleanup, so victim compensation cannot pay this expense; in practice, however, landlords often do not wish to pursue insurance. Such complications only hurt the families of the victims, and efforts must be better coordinated to ensure that timely crime-scene cleanup becomes an inherent part of our response to crime.

Similarly, lock replacement is not routinely offered to victims, including victims of nonviolent offenses. Lock replacement can help restore a victim's feelings of safety. Participants noted that D.C can do better in providing adequate assistance to victims in the immediate aftermath of crime.

Increased community safety

Participants noted that juvenile confidentiality can put others at risk and may even harm a youth's rehabilitation. For example, there currently is no juvenile sex offender registry. As a result, summer youth employment programs have sometimes placed juvenile sex offenders with children of same age group that they offended against. There is no overarching policy that governs this assignment, but developing one could promote peace of

mind for victims and reduce repeat offenses. Participants looked to find innovative ways to balance a juvenile's right for confidentiality with victim concerns.

Increased access to victim compensation and restitution

The D.C. victim rights provisions introduced in 2005 also included rights to victim compensation and restitution. In practice, restitution is an important but mostly symbolic gesture, because juveniles in the system cannot afford to pay—certainly not enough to reimburse victims for the full amount of their losses. Additionally, judges will waive compensation payments and fines, which hurts the ability of the compensation program to support victims. Past lobbying efforts have endeavored to discourage judges from waiving these fines, emphasizing their importance to victims.

There is also a very limited system to replace property of victims of non-violent crimes. While the focus of advocates tends to be on violent crimes, the victims of non-violent crimes can also be traumatized by the experience. No coordinated response currently exists for providing these victims with restitution.

Conclusion

Roundtable participants from the fields of juvenile justice reform and victim advocacy found considerable common ground during the day's discussion. Such a group would be well-placed to form a broad-based advocacy voice, promoting further evolution of juvenile justice and victims' rights in the District of Columbia.

Hilgendorf, Shawn (Council)

To: Wade, Diamond (Council)
Subject: RE: Comprehensive Youth Justice Act of 2016 -Bill 21-0683

To: Members of District of Columbia City Council, etc.,

Re: The retroactivity of the "Comprehensive Youth Justice Act of 2016" --Bill 21-0683

Dear Sirs/Madame:

My name is Kareem McCraney, in 1997 I was arrested for First Degree Murder, Case No. F485097. I was seventeen years old at the time (juvenile). I was waived from the jurisdiction of the Family Court, and tried as an adult in the Superior Court for the District of Columbia, pursuant to DC Code Title 16-2301. Ultimately, I was convicted and given a 30 years to life sentence. This sentence was imposed without the court having the ability to take into consideration any of the mitigating factors of youth, as now mandated by the US Supreme Court's rulings in "Roper", "Graham", and "Miller".

This communication comes in light of the District of Columbia's recent proposal for enactment of the "Comprehensive Youth Justice Act of 2016"--Bill 21-0683, and if this bill is in fact passed and enacted for legislation, I'm asking that this bill be applied retroactively to those who have spent decades upon decades of their lives confined in prison already. These men/women, myself included have been castigated and disregarded as irredeemable and incorrigible by society for choices that were made and influenced by an environment that they could not extricate themselves from during their youth, such a conclusion to be reached at that time without investigating the intricacies and complexities involved in a childs life during that time was misplaced then, and the scientific studies that are now present shows that such practices were in error then, as well as now.

I and others such as myself stand as a testament to the power of redemption, and the power of the human spirit. Because despite the draconian sentencing regime in place at the time that those life and defacto life sentences were given to the juveniles of my era, and those imposing those sentences knowing that that type of retribution had the power and potential to crush the human spirit, let alone the spirit of a child, leaving them in a state of despondency, bereft of hope, nevertheless, some of us, myself included has tapped into the reserves that human spirit provides, and maintained hope when everything around us depicted a hopeless situation, and in the midst of such chaos, and the traumatic psychological experiences that prison brings as a consequence of its essence. I've managed to maintain the belief in myself, the belief in humanity, which has compelled me, and others like me the ability to keep striving and aspiring to our hopes and dreams in spite of the conditions that we find our selves in. And now there is the possibility for society to demonstrate its humanity, its forgiveness and contribute to the redemptive process of those whom they threw away without a second thought decades ago. Those youth from years ago, are now men, some may be better from their experiences, and others may not be so much so, but through the "Comprehensive Youth Justice Act of 2016", here is a platform where things can be reconciled and rebuilt in the name

of justice and humanity.

My life is a testament, that you are not the same person when you are 16-17 years old, as I am now a 36 year old man. A man who was forced to become a man, in a most hostile, volatile, and oppressive environment---The US maximum security federal penitentiaries, as well as, being exposed to Lorton's maximum security prison for two years locked down 23 hours a day with the worst adult criminal offenders. But my situation was not unique, sad to say, it was commonplace.

Nevertheless, I've managed to complete a variety of programs e.g., GED, Associates Degree in Paralegal Studies, Introduction to Psychology, Anger Management, certification in Occupational Safety Health Administration (OSHA), amongst a host of other programs. Our story never gets told, the only things ever mentioned is some misplaced rationale of why we should remain confined as opposed to having a meaningful chance to make a life for ourselves and become productive members of society, helping to build up the communities that we once helped to destroy during the ignorance of our youth with impetuous acts. I do not mention this in such a way as to get you to think that our actions of crimes committed in our youth should be forgotten or down played, because such is not the case, I am contrite and recognize the errors of my ways, but what is humanity without the power of forgiveness and its redemptive ways, whatever happened to second chances should the opportunity arises, as the opportunity is now before us, and through making this bill retroactive if it is passed would be truly a great statement to what our society stands for.

From a legal and constitutional perspective, here is my reasoning on why, if this bill is passed it should be done so in a retroactive manner. Because if not it will be a violation of the United States Constitution eighth amendment, which bans cruel and unusual punishment, as well as disproportionate sentences, and in addition to this, it will also be a violation of the fourteenth amendment, which guarantees equal protection of the laws.

To make such a bill only applicable to the future, while denying it for those who have suffered under the error of those unconstitutional sentences, on which such a legislation is even premised upon defies logic and reason, but here is something else to take into consideration, we should have never had those sentence from the start:

In 1972 there was a landmark case called "Bland". It was this case that enabled juveniles to be automatically waived from juvenile jurisdiction to that of an adult without a hearing, pursuant to DC code Title 16-2301. I would like to summate what the legislatures intended for the juveniles in the District of Columbia, as depicted in the legislative history articulated within the context of the above mentioned case, and how juveniles were to be safeguarded from the types of sentences we now have, despite being tried as an adult.

Congressional intent stipulates 2 things in particular for its justification for removing certain youth from the jurisdictional definition of the term child as is defined in "Kent 383 U.S. 541", and ultimately moving him from the jurisdiction of the Family Court.
1. Certain crimes allegedly made certain juveniles more sophisticated than their peers, and less susceptible to juvenile treatment.
2. To keep hard core repeat juvenile offenders, whom had already been exposed to juvenile treatment and facilities, because of prior adjudications, away from those juveniles whom they thought were salvageable within that system.

In addition to this removal of certain types of juveniles from the jurisdiction of the Family Court,

to safeguard this group from being treated, and sentenced the same as the worst adult criminal defendants, Congress accorded this group of juveniles the extraordinarily flexible provisions of the Federal Youth Corrections Act, see Bland 472 F.2d 1338. In 1984 the Federal Youth Corrections Act was repealed, and in its place came the District of Columbia Youth Rehabilitation Act which excluded those juveniles ages 16-17 charged and convicted under Title 16-2301 (3)(A), who had first or second degree murder charges. Under the new act you could not be considered or evaluated to see if you would meet the criteria for a Youth Act Study. Without the safeguards of Youth Act rehabilitation programs, and sentencing, that congress initially prescribed for this group of juveniles, we were excluded from having any safeguards or oversight to make sure our rights were protected and we ultimately ended up receiving sentences that we probably should have never had in the first instance. But through the retroactivity of this bill we can begin the process of rebuilding juvenile justice, in the process of making sure that all the constitutional protections and considerations are in tact.

In Roper v. Simmons, 543 U.S. 551 (2005), the US Supreme Court held that there are 3 general differences between juveniles and adults that demonstrate that juvenile offenders cannot with reliability be classified among the worst criminal offenders. And if you allow the sentences to stand for those whom have already been incarcerated prior to the enactment of the bill, you will in fact be saying that we were to be held to the same standards as those adult criminal defendants because we have essentially the same sentences as them, and in some instances more.

The differences between juveniles and adults render suspect any conclusion that a juvenile falls amongst the worst criminal offenders. The susceptibility of juveniles to immature, and irresponsible behavior means " their irresponsible conduct" is not as morally reprehensible as that of an adult. Their own vulnerability and comparative lack of control over their environment means juveniles have a greater claim than adults to be forgiven for failing to escape negative influences in their whole environment.

Now considering that the US Supreme Court has ruled that no juvenile offender could be held to the same standard as the worst adult criminal offender, and if there is nothing to function as a safeguard along side DC Code Title 16-2301 (3)(A), as there was in the 70's and 80's, see Federal Corrections Youth Act, repealed in 1984, then our sentences are in contrast to original congressional intent, the United States Constitution, as well as the US Supreme Court's rulings in Roper, Graham, and Miller. And if this bill was proposed in an attempt to reform the juvenile justice system and to right some of the wrongs that were put in place under the old sentencing regime, so that the future of those youth who may make mistakes for whatever reasons and encounter the criminal justice system, based upon what we now know about the adolescent brain, they will be given a consideration based upon the mitigating factors that youth is comprised of as opposed to being just disregarded, where help is needed and warranted, then this same bill should apply to those from the past who have in fact suffered and continue to suffer, from the same things and sentences in which you are now proposing to protect and safeguard future youth from. There is no rational basis why such a bill should not be retroactive.

Here I am, a 36 year old man, I've never been exposed to any type of juvenile treatment or facility, I've never been adjudicated as a juvenile delinquent, I've never been on probation, or in a juvenile group home, I have never been convicted of a crime as a juvenile, I grew up in a drug infested and violent environment in which I could not extricate myself from. My mom was in prison, my father was in prison, and on my first case I went to prison and was given the same type of sentence that was being meted out to adults who were tried and convicted for

the same crime that I was convicted of, and some of them even had lesser sentences because they were able to plea, where as though I didn't even have that option. So all things considered in its proper context, I beseech you to take into consideration that rationale of making this bill retroactive if it is in fact passed for legislation.

If you wish to contact me you can contact me at:
Kareem McCraney 12177-007
USP Canaan, P.O. BOX 300
Waymart PA, 18472

For my outside contact, you contact Carletta Thomas, Phone# 202-674-2298. Your time and consideration is greatly appreciated.

Jason Ziedenberg, M.S.
Research and Policy Director
Justice Policy Institute

COUNCILMEMBER KENYON MCDUFFIE, CHAIRPERSON
COMMITTEE ON THE JUDICIARY

BILL 21-0683, THE "COMPREHENSIVE YOUTH JUSTICE AMMENDMENT ACT OF 2016"

Thursday, June 2nd, 2016, 10 a.m.
John A. Wilson Building, Room 120
1350 Pennsylvania Avenue, NW
Washington, D.C. 20004

Submitted, June 6th, 2016.

Thank you, Chairman McDuffie for allowing me to testify in support of the approach contained in Bill 21-0683, the Comprehensive Youth Justice Amendment Act. Per the process, my final testimony will follow, including a couple of papers covering the issues of youth confinement, diversion and the transfer of young people to the adult system that I've authored on these issues.

My name is Jason Ziedenberg. I am the Research and Policy Director of the Justice Policy Institute, a Washington, D.C.-based think tank whose mission is dedicated to reducing the use of incarceration and the justice system by promoting fair and effective policies.

I am also a 15-year resident of Washington, D.C., and a former resident of Oakland, California and Portland, Oregon: In all three places, I worked with juvenile justice system practitioners around implementation and operational issues related to many of the policy areas offered in this approach. JPI also works with the U.S. Justice Department on projects to help advance operational and implementation work consistent with the approach in this bill.

JPI supports the policy approach contained in this bill, and we encourage you and your colleagues to enact this legislation.

The key reasons to support this legislation include:

1) **It is the right approach to public safety in Washington, D.C.:** The research shows that when we confine youth pretrial, including status offenders and other youth, it makes it more likely that they will reoffend, makes it harder for them to connect to the school, work and life opportunities that all young people need. On the issue of where young people should be housed if they end up in the adult system, research from the U.S. Justice Department's Office of Juvenile Justice

and Delinquency Prevention and the Centers for Disease Control have shown that youth in adult facilities are more likely to commit future crimes than youth kept in a juvenile facility. Solitary confinement can aggravate conditions that make it harder for a young person to move past delinquency, and mandatory minimums compromise public safety by wasting resources we could be directing towards more effective public safety pursuits.

2) **It is the right approach to youth development and building our neighborhoods:** The way this approach increases the systems reliance on diversion and restorative justice will have a both a public safety benefit, and potentially can help resource different parts of the various systems that touch young people. The more we can be targeting the city's approach to be working with young people in their schools, community centers and their neighborhoods, the more that we can strengthen neighborhoods, rather concentrating our approach in facilities. Community-based approaches help us invest in youth and families directly.

3) **It is a comprehensive approach consistent with what is good practice and where other justice systems are going:** A couple of weeks back, some council staff attended a briefing at the National Press Club and heard how Indiana, Massachusetts, Ohio and Oregon are moving towards ending the practice of solitary confinement. These changes were offered in the context of larger, more comprehensive reforms: all these places increased the use of diversion, found other places a where persons in need of services could be other than the justice system, advanced strategies to reduce pretrial confinement, reduced formal out-of-home placement, and reduced the number of youth transferred to the adult system. If DC followed the approach laid out in this bill, it would join other jurisdictions that are moving in this direction.

I want to spend the remainder of my time talking about, what catalyzes youth policy change, and the role the Comprehensive Youth Justice Amendment Act may play actually helping operationalize changes imagined in this approach.

Along with the District, I've worked in Oregon and California – two states that have seen a lot of the kinds of changes around trying youth as adults, pretrial detention and diversion imagined in the approach here. In these two states, law changes along with lawsuits helped system leaders come together to build a better system. It didn't happen all on one day or all at once, and silos had to be knocked down between local government and state government, and different departments (like education, mental health, housing and juvenile corrections). Because a piece of legislation served as the catalyst, both California and Oregon took multiple steps to that led to a significant reduction in the confinement of pretrial and committed youth, stepped up investments in prevention and diversion, and have moved youth transferred to the adult system to juvenile facilities. One of these systems is now a national leader in ending the use of solitary confinement.

Because of the way Washington, D.C.'s justice system is split between the District and the federal government, sometimes one part of the system has to serve as a catalyst for change across city and federally agencies, and across the nonprofit networks that need to be working with young people in the community.

This legislation could be the catalyst: it could bring the stakeholders together to breakdown silos, resolve operational and implementation issues that stand in the way of best practice, and help the city, federal and nonprofit agencies move towards an approach that is consistent with the research on what works.

Long after this approach is enacted through the passage of Bill 21-0683, the constituency that has helped D.C. develop safe, healthy places for young people to be will need to be engaged on an ongoing basis to help the federal and city agencies and the networks of nonprofits implement this approach: It is critical that the whole system is working together to achieve the goals of the approach, and that practices from agency-to-agency and department-to-department are in harmony of with each other around what is being prioritized here.

By of way of example, in one of the juvenile justice systems I have worked in, decisions made by judges in one or two courtrooms that did not align with a best practice approach to pretrial detention meant, the detention center ended up being overcrowded with young people who could have awaited their trial date at-home. By way of example, in one of the juvenile justice systems I worked in, the police department's decisions around deployment and whether they would use a diversion option had a dramatic impact on whether or not the detention center was overcrowded. These kinds of policy choices in one part of the system can have a cascading affect on the use of confinement: They can affect everything from the whether or not the system can focus on the policy changes to end solitary confinement to whether or not the resources are available to fund diversion and alternatives-to-incarceration at scale.

For this approach to work, all the different parts of the juvenile justice system – across agencies and departments – need to be in alignment with the approach contained in the Comprehensive Youth Justice Amendment Act. This is going to require all of us engaging with more than one agency, more than one level of government and the nonprofit sector to make sure they are in alignment with this approach in this bill.

The city also has a historic opportunity to leverage the U.S. Justice Department's new focus on various issues that relate to the approach in this bill. The Office of Juvenile Justice and Delinquency Prevention's focus on helping states reduce the use of solitary confinement can be leveraged to help implement our local approach to this challenge. Private philanthropy in this region and nationally are also working to expand diversion and placement approaches to reduce young people's justice system involvement.

I thank you for your consideration, and I am happy to answer any questions in regards to my testimony or the issues raised here.

Attachments.

- Ziedenberg, Jason. You're An Adult Now: Youth in Adult Criminal Justice Systems. (Washington, D.C.: U.S. Department of Justice, Federal Bureau of Prisons, National Institute of Corrections, 2011).

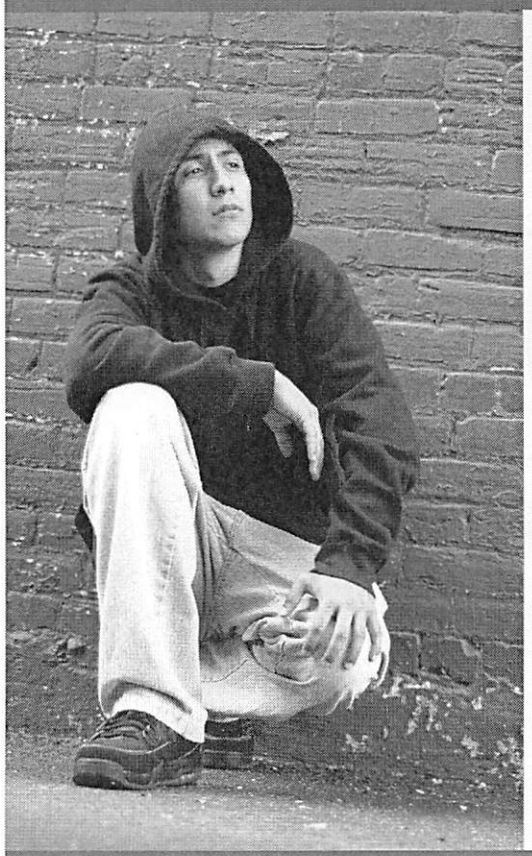
- Ziedenberg, Jason et. al. Sticker Shock: Calculating the Full Pricetag for Youth Incarceration. (Washington, D.C.: Justice Policy Institute, 2014). [[Provided as a weblink]]

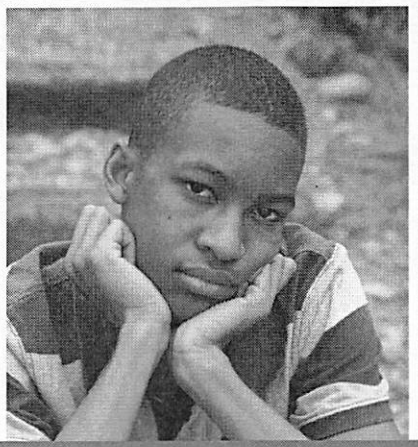
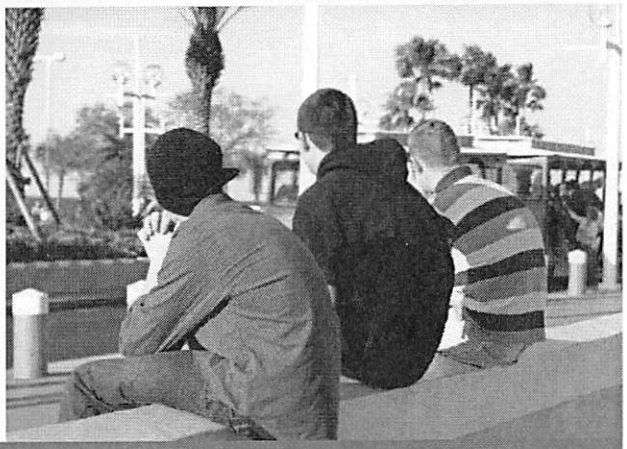
- Davis, Antoinette, Irvine, Angela, Ziedenberg, Jason. Using Bills and Budgets to Further Reduce Youth Incarceration. (Oakland, California: National Council on Crime and Delinquency, 2012).

NCCD | National Council on Crime & Delinquency

Using Bills and Budgets to Further Reduce Youth Incarceration

Antoinette Davis, Angela Irvine, and Jason Ziedenberg



MARCH 2014

Table of Contents

Introduction 1

Success Across the Country 2

Five Components to Successful Legislation 3

Reform Challenges 6

Recommendations 9

Information

This publication is part of an eight-part series of information sheets and reports developed from a national study on deincarceration conducted by the National Council on Crime and Delinquency. The complete series, along with a ninth piece containing notes and resources, can be found here: http://nccdglobal.org/what-we-do/our-focus-areas/juvenile-justice/deincarceration-reports

Acknowledgments

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NCCD promotes just and equitable social systems for individuals, families, and communities through research, public policy, and practice.

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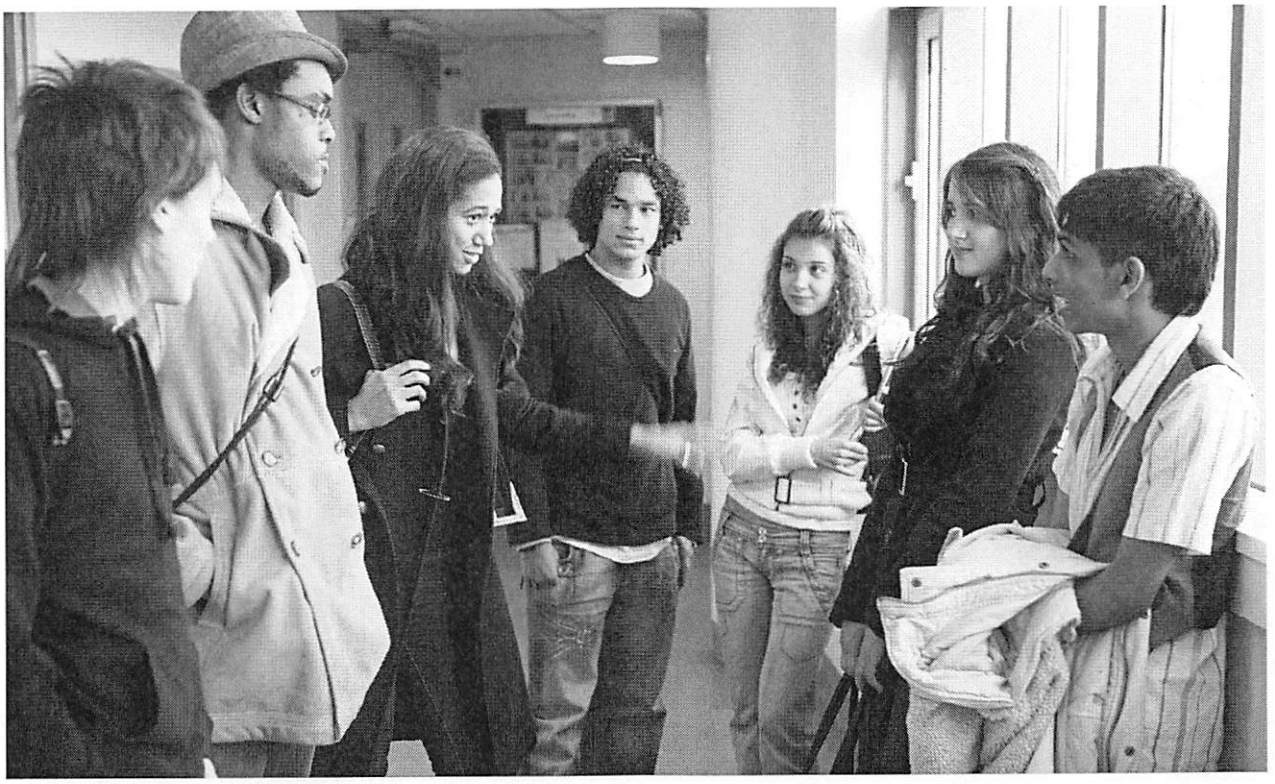
Introduction



States across the country have seen huge reductions in the number of youth incarcerated in detention halls, camps, and state secure facilities. One major reason for the reductions is successful legislation developed by advocates and legislators on both sides of the aisle. The five most successful components of this legislation include provisions that:

- Move supervision responsibilities for some youth from the states to county agencies;
- Include fiscal incentives to pay for these shifts in responsibilities;
- Exclude categories of crimes such as status offenses, misdemeanors, and non-violent felonies from eligibility for incarceration in state facilities;
- Require use of the best practices identified by research; and
- Encourage stakeholders to place youth in the least-restrictive settings by naming it as a goal in reform legislation.

Despite the overall reduction of incarcerated youth, much higher percentages of youth of color remain under formal supervision and in state secure facilities.[1] This suggests that even the most successful states need to employ new strategies. Systems need to continue to reduce out-of-home placements in order to strengthen the links between youth and their families. They also need to identify the most effective supervision strategies. Legislation helps this agenda by guaranteeing the flow of funding to fiscally sustainable, culturally relevant community-based organizations with promising research-based practices.

Success Across the Country

The National Council on Crime and Delinquency (NCCD) spoke with 140 juvenile justice stakeholders across the country in a series of interviews, focus groups, and convenings. Analysis of the data collected from those conversations allowed NCCD to identify legislative strategies from several states. In some cases, these bills or budgets might have been the first big step in the reform process; in others they were crucial to subsequent efforts that expanded the reform and accelerated the juvenile deincarceration trend. Some examples are listed here.

RECLAIM Ohio (1993) and Targeted RECLAIM (2010)

Legislative reform in Ohio occurred in two stages. The first legislation, RECLAIM Ohio, provided nine county courts with funding to develop or purchase a range of community-based options to meet the needs of juveniles who might otherwise be sent into state custody. The funding stream was revised several times during the last two decades. The second wave of legislation targeted six counties that continued to have high rates of incarceration. Beginning in 2010, Targeted RECLAIM gave fiscal incentives to juvenile courts in those counties to further reduce the number of youth they sent to state secure facilities.

Michigan's County Juvenile Agency Act (1998)

In Michigan, the County Juvenile Agency Act of 1998 allowed local governments to assume a role in juvenile justice once held by the state. Since then, many counties have creatively leveraged the state's Child Care Fund to develop innovative community-based programs that treat youth closer to home.

Redeploy Illinois (2004)

In exchange for an agreement to reduce the number of youth a county or court sends to the state by a fixed percentage, Redeploy Illinois gives communities a percentage of the savings at the state level in order to develop local alternatives and keep youth out of the state system.

California's SB 81 (2007)

SB 81 banned the admission of all youth to state corrections facilities except those convicted of the most serious and violent offenses and provided a portion of the funds that would have been spent on youth incarceration to county probation departments in order to serve these youth.

Texas SB 103 (2007)

Among a number of changes, SB 103 banned incarceration for misdemeanors at the state level, established inspector general and ombudsman offices, and developed a funding stream to support community-based supervision and services. Legislation that followed SB 103 formalized funding streams from the state to serve youth locally.

Alabama's Juvenile Justice Act (2008)

Alabama's 2008 law prohibited secure custody for status offenders and very young youth, encouraged more diversion, improved juvenile defender standards, and reduced the flow of youth from schools into the system.

New York State Reforms (2011 and 2012)

The 2011 New York State budget increased funding to develop alternatives to detention or residential placements. The 2012 state budget enabled New York City and New York State to collaborate to develop local placement options that keep most youth in their homes.

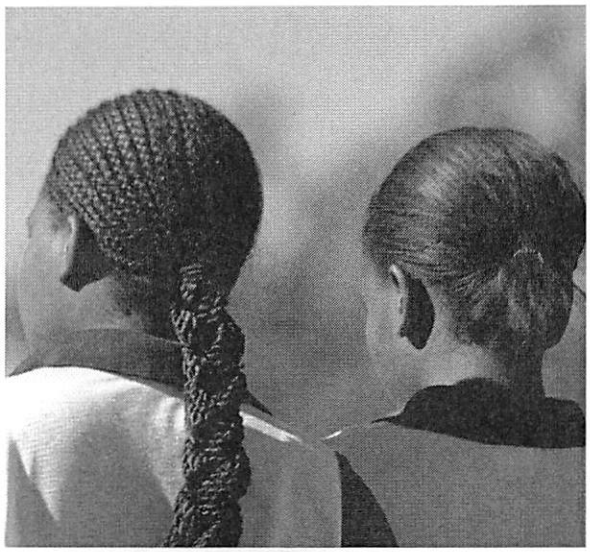
Five Components to Successful Legislation

Additional states, including Arkansas, Florida, Georgia, Nebraska, Mississippi, and Oregon, plus Washington, DC, have embedded similar strategies in recent legislation. The following five legislative components were most commonly found in the bills that were passed.

1) Increased Local Control of Juvenile Justice Functions and Policy

In most places, juvenile justice systems comprise a partnership between the state, counties, and local courts. As states have shifted away from more punitive approaches, they have reshaped their relationships with counties, courts, and local government in order to see more young people served in their home communities.

Legislative approaches in a number of states—California, Michigan, Texas, Ohio, Illinois, and Georgia—have empowered local juvenile justice systems to serve youth who, in the past, were incarcerated by the states. These approaches also have transferred more responsibilities to local governments to serve young people who were once state wards.



Following California's enactment of SB 81 in 2007, AB 1628 gave juvenile parole responsibilities to California counties. Though separated by a decade, both New York's Close to Home initiative and Michigan's County Juvenile Agency Act allowed local governments to assume a role in juvenile justice once held by the states. Recent Texas legislation allows Travis County to create a pilot program that gives judges the opportunity to sentence youth under determinate sentencing to local juvenile facilities, rather than state facilities.[ii] In the past few years, Oregon juvenile justice directors have looked to assume control of parole from the state system.

2) Funding Streams and Incentives to Serve Youth Locally

"We've validated the proposal we put forward to the policymakers in 2009 that said, 'Give local communities the resources and we will refer the youth away from the deep end of the system.' I think there is strong evidence that shows that has worked."—Mike Griffiths, Executive Director, Texas Department of Juvenile Justice

Nine states—Alabama, Arkansas, California, Georgia, New York, Texas, Illinois, Ohio, and Nebraska—established some kind of fiscal incentive to serve more youth outside of the state system and in their home communities. These fiscal incentives are among the few "good news" stories relating to budgets since the start of the Great Recession in 2008. The incentives created years ago in California, Michigan, Texas, and Ohio to serve youth in local juvenile justice systems survived turbulent budget times in these states. At least five states—Alabama, Georgia, Illinois, Nebraska, and New York—saw expansion of these incentives during the Great Recession.

Examples of these fiscal incentives include full appropriation to counties or courts to serve blocks of youth once sent to the state system and incentives to

serve specific categories of youth who are currently incarcerated so that they can be served elsewhere. In some cases, the incentives have evolved over decades. Some started as pilot projects, with legislative changes eventually expanding their work to deepen statewide impact. More information on some of the state efforts follows.

Texas: SB 103 authorized modest new funding to enable counties to serve youth who were once destined for the state juvenile justice department. Over time, additional legislation strengthened the initial reforms. In 2009, a Texas budget bill further enabled the juvenile justice system to live up to the 2007 legislative vision by increasing the grant funds available to counties to serve youth locally through diversion or local supervision and custody options. In 2011, when legislation merged the state-run juvenile probation and youth corrections departments, the state consolidated funding streams to support youth supervision and services at the local level.[iii]

New York: The Supervision and Treatment Services for Juveniles Program, which was part of the 2011 New York State budget, incentivizes counties to serve youth in their communities outside of restrictive placement. The legislation placed a cap on the amount each county may spend on detention and still receive state funds, compelled counties to examine their practices and make decisions about how detention should be used, raised the proportion of state reimbursement to counties for alternatives to out-of-home placement and pretrial detention, required the creation of a local alternatives-to-placement plan, and mandated implementation of detention risk assessment instruments and documentation in the record of a judge's rationale for detaining low- and medium-risk youth.[iv]

Michigan: Michigan took a significant step forward in 2013 by developing its $1 million In-Home Community Care Grant, a competitive grant program designed to incentivize and increase community-based options for juvenile offenders in rural areas and reduce county reliance on more expensive residential facilities.[v]

Georgia: In 2013, Georgia established a voluntary fiscal incentive grant program—a $5 million fund to start in fiscal year 2014 and an additional $1 million in federal funds—to help counties develop local options to serve youth. The grants will be awarded through a competitive process that includes performance goals seeking a reduction in commitments to the state.[vi]

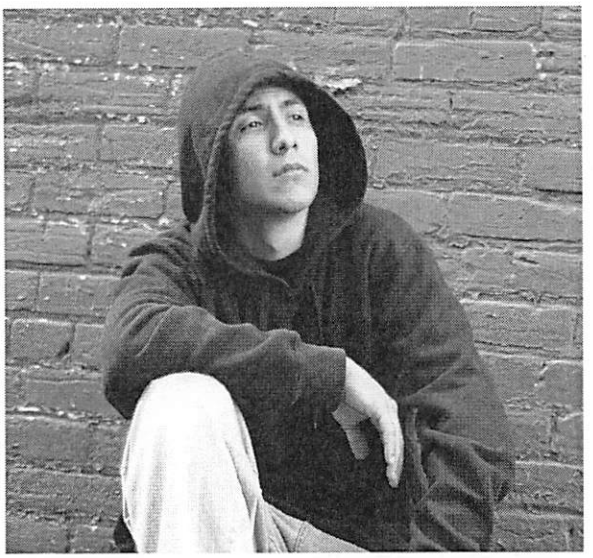
3) Barring the Admissions of Certain Categories of Youth

"What happened in 2007 is Senate Bill 81 passed, which said that lower-level offenders who hadn't committed a certain class of offenses categorically could no longer be sent."—Kimberly Bushard, California Board of State Community Corrections

Seven states—Alabama, California, Connecticut, Florida, Georgia, Mississippi, and Texas —recently decided to bar the admission of youth convicted of certain offenses to their state facilities or local detention centers. Categories of barred offenses include status offenses, misdemeanors, and non-violent offenses. In 2007, Texas SB 103 screened misdemeanant youth out of the system. Two states—Connecticut in 2006 and Alabama in 2008—passed legislation that barred from state facilities the admission of youth whose crimes were status offenses. In 2010, Mississippi enacted SB 2984, legislation that prohibits sending to state training schools youth who have been adjudicated for a non-violent felony or fewer than three misdemeanors.

In 2011, legislation in Florida held that courts should no longer commit youth without felony convictions to residential facilities under most circumstances.[vii] Georgia's 2013 reforms prohibit residential commitments for all status offenders and certain misdemeanants. Only those misdemeanants whose offense histories include four prior adjudications, of which at least one was a felony, may receive out-of-home placement.

With SB 81, however, California went the furthest in limiting the types of youth who could be sent to state secure facilities. With this bill, legislators determined



that only violent, serious, and sex offenders could be sentenced to the state system. This provision barred status offenders, misdemeanants, and most felons.

4) Research-Based Approaches

Research has played a key role in juvenile justice reform. During the past decade, new research uncovered the negative impact of incarceration on young people's reoffending. It also identified promising practices for successfully transitioning youth into adulthood.

As new legislation was advanced to change systems, it included provisions that encouraged or required the use of research-driven practices to curb delinquency. Juvenile justice reform in five states—California,[viii] Georgia,[ix] New York,[x] Texas,[xi] and Oregon—and Washington, DC, noted that new approaches must be outcome-driven or utilize research-based tools such as risk assessment instruments. While some jurisdictions interpreted these clauses as requiring the adoption of psychological models established as evidence-based practices, the legislation was meant to highlight the importance of researching emerging interventions.

5) Naming Least-Restrictive Settings as a Goal in Legislation

Our study respondents reported that legislative clauses that set least-restrictive settings for youth as a goal helped them change placement practices in their counties and states. Five states—Arkansas, Illinois, Missouri, Pennsylvania,[xii] and Nebraska[xiii]—and Washington, DC, recently created legislation that presumes juvenile justice systems will place young people in the least-restrictive alternatives and as close to home as possible. System stakeholders in these sites reported facing systemic challenges and public concerns about keeping more youth in the community. However, their ability to point to these statutes allowed them to continue pressing their partners to develop practices, programs, and policies designed to keep more youth in their home communities. NCCD heard that these laws also offer stakeholders—such as public defenders, judges, and district attorneys—opportunities to challenge each other around whether the least-restrictive alternative to incarceration has been tried.

As a result of these changes, youth are better able to maintain positive relationships with their families and friends. The quality of reentry support services is also enhanced. When youth are placed in close proximity to where they will be released, they build relationships with local service providers who come into detention and congregate care facilities. These relationships continue out in the community once youth are released, providing a seamless continuum of services and relationships with positive adults.

Reform Challenges

Advocates for more effective public safety and youth development practices have real reasons to be hopeful: The five legislative strategies listed on the previous pages have been used in state after state to help reduce confined juvenile populations. At the same time, states face a number of ongoing challenges around whether appropriate funds are available to support young people in the community through the right intervention delivered by the right people.

Not Enough Federal Dollars

The National Academy of Sciences recently reported that federal funding available to support implementation of the Juvenile Justice and Delinquency Prevention Act and other improvements by state and local governments declined by 83% from 1999 to 2010.[xiv] The appropriations caps contained in the Budget Control Act of 2011 are affecting many federally funded programs, thereby accelerating the scope of the cuts.[xv] The National Juvenile Justice and Delinquency Prevention Coalition—a consortium of more than 100 juvenile justice system stakeholders that advocates for federal reforms—has called for a return to federal funding levels seen in 2002. The coalition is also urging the Office of Juvenile Justice and Delinquency Prevention to advocate on behalf of federal youth service dollars, measure outcomes more robustly, return to the role that it played in coordinating and establishing policy, and advocate for innovative local funding reforms that could play significant catalytic roles in states and local communities.

To build the capacity of community-based organizations at the level needed to meet the needs of young people being served in the community, legislation and budgets need to prioritize ways to raise revenue to revamp the federal and public sector role in funding these services. In addition, funds are needed to build a strong infrastructure that can serve youth when they return home.

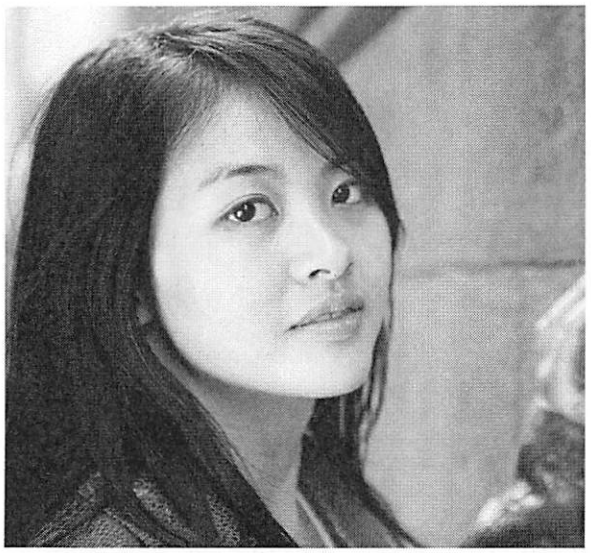
Not Enough Reinvestment

"As (states) go through this reinvestment, what they fail to do is maintain the infrastructure to allow the local (jurisdiction) to deal with these folks locally."—Scott Taylor, Director, Department of Community Justice, Multnomah County, Oregon

As juvenile incarceration populations have fallen, a significant number of facility closures have theoretically freed up at least some of the funds once spent on those facilities. The National Juvenile Justice Network publication, *Advances in Juvenile Justice Reform*,[xvi] profiled juvenile facility closures in more than a dozen states, including California, Arizona, Kansas, Indiana, and Connecticut. Social justice organization Texas Appleseed documented seven facility closings between 2007 and 2011. In another accounting, the Annie E. Casey Foundation's *No Place for Kids* showed that 18 states closed more than 50 juvenile facilities or portions of juvenile facilities in the four years prior to 2011.[xvii] In New York State alone, 14 facilities were closed or downsized according to *No Place for Kids*.

Some of the funds once spent on these buildings have been reinvested in other parts of the formal juvenile justice system budget. When Ohio closed a facility in 2010, saving $7 million in annual operating costs, half of those funds were reinvested in local juvenile justice programs through either the RECLAIM formula or the Behavioral Health Juvenile Justice initiative.[xviii] As part of the state's 2013 budget, Pennsylvania leaders reallocated some of the $19 million in funds saved through the New Castle Youth Development Center closure to fund other juvenile justice services.[xix] In Oregon, as part of the 2011–13 budget, the state cut the number of "close custody" secure beds by 150 and increased the number of less-restrictive beds and slots available to serve these youth in their own communities.[xx] When New York closed a juvenile facility in 2010 and saved $21.8 million, the state spent an additional $26.1 million that year to improve practices in another part of the state system.[xxi]

Taking the savings from facility closures to reinvest in something other than the formal juvenile justice system has proved to be a challenge in most locations including Texas, which provides a good example of the reinvestment challenge within the juvenile justice system. Texas went through multi-year changes in waves of legislation that followed SB 103 and merged its probation and corrections divisions. During these changes, the proportion of money going to probation departments in lieu of correctional placement went up, while the total Texas juvenile justice budget declined. As a result, Texas stakeholders expressed deep concerns that facility closures, reinvestment, and fiscal incentives were not substantial enough to create a sustainable service infrastructure for youth at the local level.

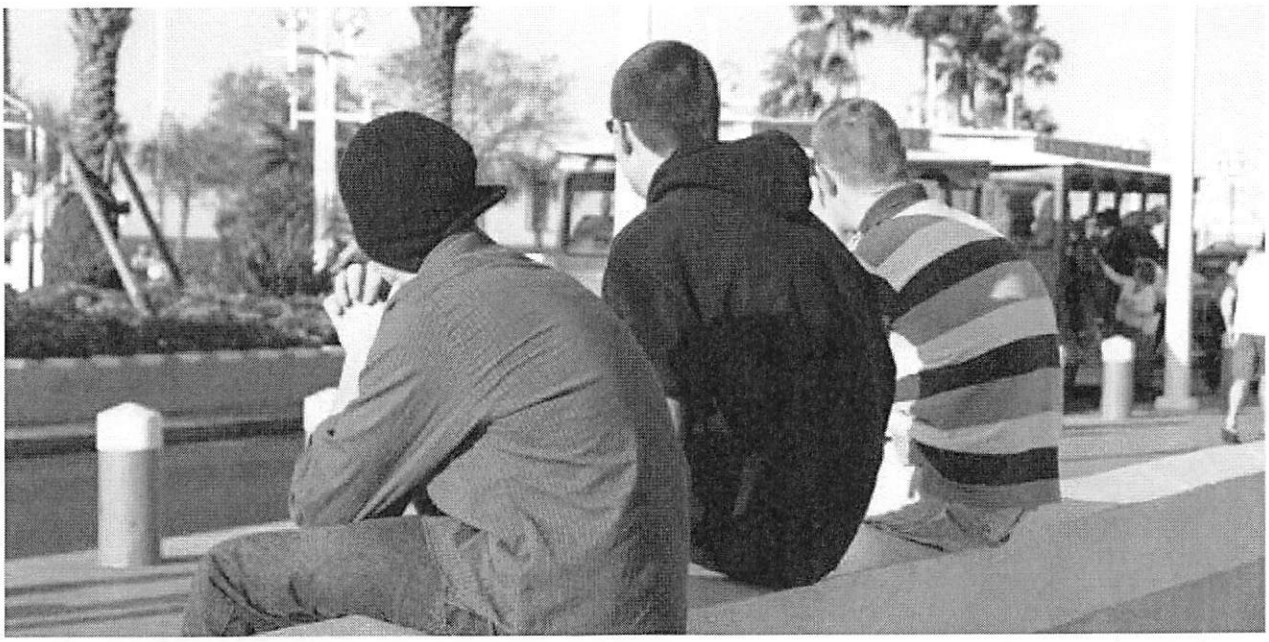


Not Enough Money Follows the Youth

"One of the challenges we have is being comfortable when we send a child out to the community that their needs are being met. We made the decision that we are not going to keep youth at low risk of offending in the system, we're going to refer them to the community. And we need to make sure youth are accessing the services."—Lynne Wilkerson, Assistant Chief Probation Officer/General Counsel, Bexar County, Texas

NCCD heard concerns regarding the availability of robust services at the level needed for youth returning to the community. The concerns were less about money within the formal juvenile justice system (though budget-strained probation and court leaders offered that as an additional challenge) and much more about meeting the service needs of youth in their communities.

When the Texas Criminal Justice Coalition surveyed local juvenile justice departments in 2012, they asked if their funding was sufficient. Not surprisingly, 75% said "no." However, when the same group was asked where they would spend money if they had it, they did not suggest investing funds in their own system. Instead, local juvenile probation leaders responsible for supervising youth in the community offered a series of non-criminal, justice-related functions like mental health services, alternatives for incarceration, and family programs.[xxii]



Not Enough Money Reaches Community-Based Organizations

"I've seen a lot of successes in New York, on deincarceration, and it's been my personal mission to move funding from youth prisons to community programs. I've been able to be a part this big push to get youth prisons closed, and those have been successes. The failures have been to actually get the resources back into the community, especially down to the grassroots faith and community organizations in neighborhoods most affected by incarceration."—Rubén Austria, Executive Director, Community Connections for Youth, Bronx, New York

"Even if you succeed in getting the money into the community, into community-based organizations, there's still that question of how you design funding processes to make sure that it includes homegrown organizations with people who lived that experience providing the service. We have this struggle in San Francisco, where it often winds up being the best grant writers, not necessarily the most qualified organizations, that receive the biggest grants."—Katy Weinstein Miller, Chief of Alternative Programs and Initiatives, Office of San Francisco District Attorney George Gascón

Among the 140 juvenile justice stakeholders NCCD convened in focus groups and meetings around this project were several dozen leaders of nonprofit service providers and community-based organizations whose missions are to serve young people and their families or to advocate for these services in the communities from which youth come. NCCD heard a fairly consistent message from this constituency: Not enough money is reaching "the street level."

California's experience with the funding stream set up as part of SB 81 is a good example of the challenge. As part of the 2007 California reforms in SB 81, the non-violent, non-serious, non-sex offender population within California's juvenile justice population shifted from state to local control. The $90 million Youthful Offender Block Grant (YOBG) program funding stream was designed to help counties serve these youth in their home communities. According to an analysis of YOBG spending patterns by the Board of State and Community Corrections, only 4% was spent on community-based organizations to serve youth, with the bulk of the funds being spent within the formal systems of county probation departments. Most of the 58 California counties did not report spending any YOBG funds on community-based organizations as part of the "reinvestment."[xxiii]

Recommendations

NCCD heard strong support for finding creative ways to capacitate community-based organizations so that they can play a role in serving youth in the community. To overcome some of the institutional and structural barriers—everything from the Request for Proposal process to the size of nonprofit organizations that can be funded—an intentional legislative focus is needed. Strategies that were offered included the following.

Expand Federal Funding

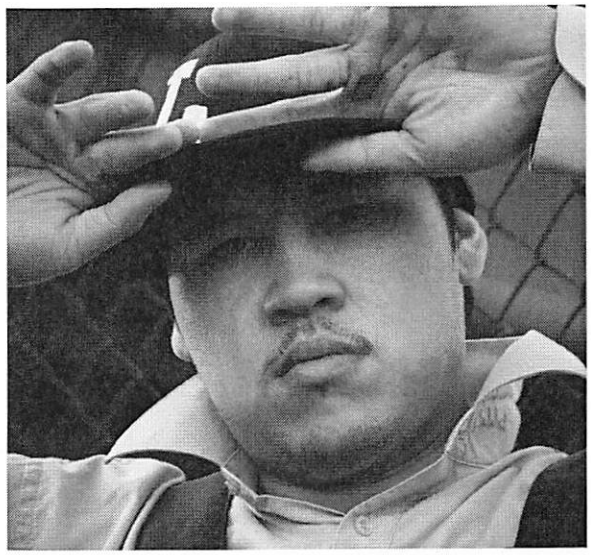
While it was eventually eliminated due to the federal budget compromise, $20 million for new incentive grants to help states implement evidence-based strategies that reduce youth incarceration and foster better outcomes for youth was included in the Obama Administration's 2013–14 budget. The budget also includes significant increases in the Juvenile Accountability Block Grant (JABG) and Title V funding streams, moneys that have traditionally supported services for young people when they are back in their communities. Juvenile justice stakeholders from the states who have used JABG and Title V funds in the past to help build a continuum of services and programs that help keep youth out of juvenile facilities believe that an increase in the federal juvenile justice budget could help their communities offer alternatives to incarceration for youth and develop the community-based services all youth need to transition to adulthood.[xxiv] Public opinion research has shown public support for paying more in taxes, i.e., a "willingness to pay" for rehabilitative services for young people exists, especially when compared to youth incarceration.[xxv]

Develop Legislation That Reallocates Funds

When facilities close, the funds budgeted for these buildings can be reallocated to serve youth in the community. If barriers to making these investments exist, they should be targets for legislative or budget reforms. As part of the 2011 budget, the New York legislature suspended the 12-month waiting period previously required when the state decided to close a facility. This change made closures easier, allowing the Office of Children and Family Services to move faster in closing empty facilities around the state and freeing up those funds for other investments in the system.[xxvi] Ohio's HB 86 allowed savings from shorter lengths of stay in juvenile facilities to be reinvested in and used by the courts; $106,200 in FY12 and $561,000 in FY13 were awarded to courts to enhance existing practices or develop new interventions.[xxvii]

Fund by ZIP Codes and Use Place-Based Approaches

Legislative approaches need an implicit focus on targeting funds to the neighborhoods in which most justice system-involved youth live. These approaches could build upon legislative efforts in New York and advocacy efforts in Louisiana and Alabama that documented the ZIP Codes and neighborhoods from which young people in the juvenile justice system come and that advocate spending more to serve youth in these communities.[xxviii]

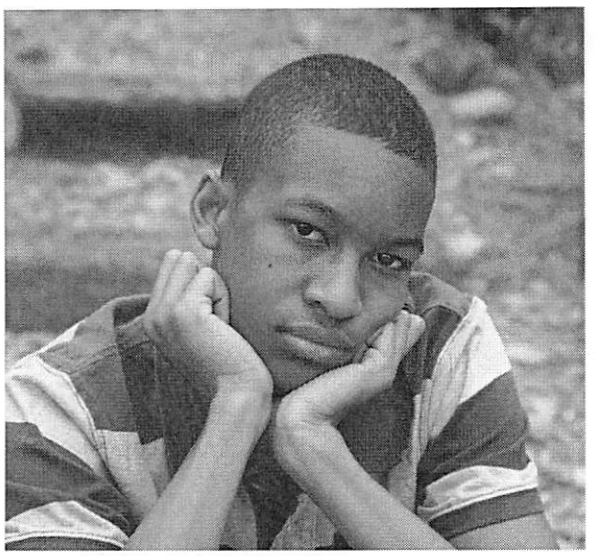


Support Community-Based Organizations With Innovation Funds

Legislation to support deincarceration should carve out some portion of the designated funds to support youth locally through innovation funds for community-based organizations. NCCD heard examples of this approach during our project. The Alameda County Public Health Department in California is redirecting money generated by adult prison realignment to provide start-up grants for new culturally relevant and community-based reentry programs.[xxix] Another example was an investment by the New York State Division of Criminal Justice Services in a "Breakthrough Research-Based Strategy," which directed grants to Community Connections for Youth,[xxx] a community-based organization in the Bronx.

Specify Characteristics of the Organizations in Legislation

As future legislation, budgets, or contracts are developed to support juvenile deincarceration, they could enumerate and help give preference to community-based organizations. Legislation, budgets, and individual contracts could note organization size, staff composition, population served, and program locations. For example, the Schiff-Cardenas Crime Prevention Act, a state-based funding stream that supports services for youth in California counties, requires community-based organizations to serve on the local bodies that oversee funding decisions. State statutes that authorize the membership of state advisory groups and other bodies that advise on how juvenile justice funds are spent could be amended to include community-based organizations.[xxxi]

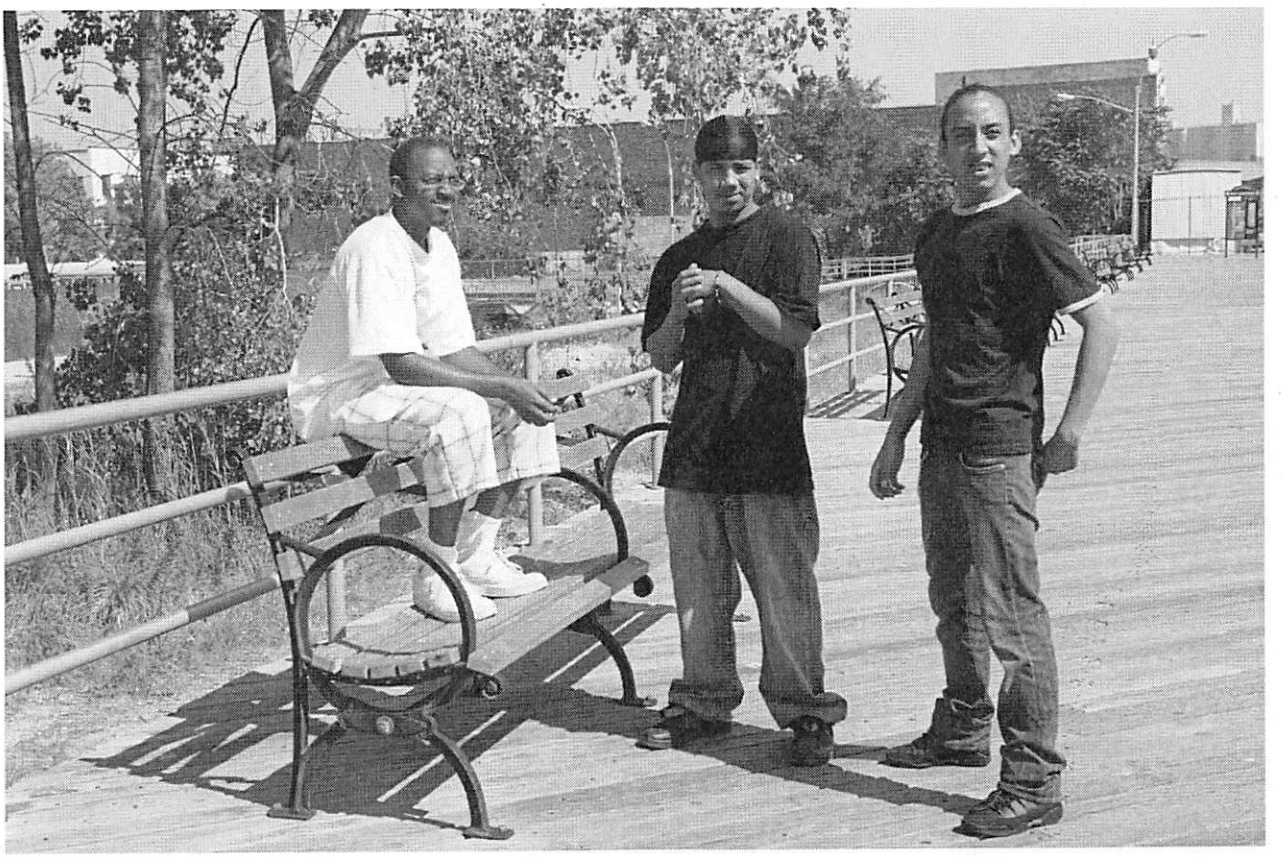


Use Performance Measures That Fit the Context of Community-Based Organizations

Legislation should include performance and outcome measures based on young people's strengths and needs in a manner that small, community-based organizations can capture. As it was described to NCCD, "some basic count so you can say this is what we do and this is how often we do it and these are our outcomes. And something positive, not just how many got rearrested." The research and evaluation center at John Jay College of Criminal Justice, City University of New York, is working to develop an evaluation system designed to address these challenges with smaller, grassroots nonprofit organizations.

Help Community-Based Organizations Access Funds

As legislation to develop or expand new funding streams is enacted, it should include technical assistance funds to help small, grassroots nonprofit providers access these funds. When the DC YouthLink initiative was developed, a $400,000 fund was set up to help community-based providers prepare to engage with the new system and broaden the number and kind of community-based providers that could work with the system.



Include Community-Based Organizations, Families, and Youth as Legislative Agendas and Budgets Are Developed

The focus groups and final review session of findings held in Chicago, Illinois, raised concerns regarding the divide between parts of the reform constituency that work on legislative advocacy and the communities most impacted. The Boys and Young Men of Color Initiative (BMOC), a project funded by The California Endowment, offers one model. BMOC has developed a vast network of boys, young men, families of color, direct service providers, policy advocates, and legislators that aims to improve outcomes for boys and men of color. Part of the focus has been developing a legislative agenda led by legislators and communities of color. The California State Assembly Select Committee on Status of Boys and Men of Color sponsored a series of hearings that took testimony from more than 2,000 youth, family members, and leaders. The committee then developed a legislative agenda around the needs identified by the hearings. In 2012–13, this committee introduced legislation that would seal juvenile records, limit the use of solitary confinement, require the review of sentences for youth transferred to adult court, require parental notification when youth are added to the state gang database, and prohibit the detention of youth based on their immigration status. The Missouri Division of Youth Services Advisory Board, which provides non-partisan policy recommendations to Missouri legislators and the executive branch on budgetary and policy matters in youth policy, is another model that actively recruits young people and family members impacted by the system.

U.S. Department of Justice
National Institute of Corrections

You're An Adult Now

Youth in Adult Criminal Justice Systems

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You're An Adult Now

Youth in Adult Criminal Justice Systems

Jason Ziedenberg

December 2011

Table of Contents

I. Introduction 2

II. What is known about the issue of juveniles in the adult corrections systems, and where are there gaps in data collection and information? 3

III. What are the issues, impacts and options facing public safety systems when youth are awaiting trial on adult charges? 9

IV. What are the issues, impacts and options facing public safety systems when youth are convicted, and committed to the adult system? 15

V. What are the issues, impacts and options facing public safety systems when youth who convicted in adult court are on probation or parole? 22

VI. Conclusion. 29

Appendix I: Summary of Policy Recommendations 30

Appendix II: Attendees and Contributors 33

References 34

I. Introduction

Since the world's first juvenile court was founded in Chicago, our legal system has recognized a separate mandate to rehabilitate youth with an approach that is different than adults.[1] Today, all 50 states and the District of Columbia and the federal government have two distinct systems for dealing with adults and juveniles, and corrections systems kept pace by developing different systems for dealing with the youth. While the majority of youth arrested for criminal acts are prosecuted in state juvenile justice systems, a significant proportion of youth are handled by adult criminal justice agencies.

It has been estimated that nearly 250,000 youth under age 18 end up in the adult criminal justice system every year.[2] However, little attention has been directed to how adult corrections systems are managing the youth offenders that end up in jails, prisons and under community supervision. To address this information gap, the National Institute of Corrections (NIC) convened three dozen juvenile justice and adult corrections experts on June 18th, 2010, to consider some of the known issues, impacts and opportunities that face corrections systems as they work to safely and effectively rehabilitate thousands of youth offenders in the nations' jails, prisons, probation and parole systems. This monograph presents the key findings identified during this convening of experts. Some of the most important findings for corrections officials, policymakers and the public include:

- Youth transferred to the adult corrections system recidivate at a higher rate than those kept in the juvenile justice system;
- Pretrial, post-conviction, and community supervision corrections systems face challenges keeping youth safe, effectively providing for their services and supervision, and containing costs required to serve youth appropriately. Due to these and other challenges corrections systems face when managing these youth, the transfer of juveniles in adult institutions might run counter to correctional and rehabilitative goals;
- To overcome these challenges, a number of states and localities have developed innovative ways of managing youth when they have been charged, convicted and committed to the adult corrections system. These changes are helping improve public safety, contain costs, successfully rehabilitate youth and help them transition to adulthood.

By reviewing the issues, impacts and options facing corrections when they manage youth in the adult system, NIC hopes to raise awareness of these issues, and focus the field on finding the best ways to curb juvenile delinquency in correctional settings.

II. What is known about the issue of juveniles in the adult corrections systems, and where are there gaps in data collection and information?

1) Approximately a quarter-million youth end up in the adult system each year, and most end up there due to age of jurisdiction laws.

The National Center on Juvenile Justice has compiled information for every state and jurisdiction on the three basic ways a youth can end up in the adult corrections system.

First, public safety systems can set ***age of jurisdiction laws:*** in some states, under some conditions, a youth is automatically under the jurisdiction of the adult court if they are of a certain age. In New York and North Carolina, for example, all 16 and 17-year-olds are considered adults in criminal proceedings. The largest group of juveniles who end up in the adult system arrive there through are in through jurisdictional age laws: approximately 247,000 youth under 18 ended up in adult court as a result of jurisdictional age laws in 2007.[3]

Second, most states have some kind of ***transfer law***: by *nature of a judicial decision, by the nature of the charge the prosecutor chooses to seek, or, by the nature of the offense,* the youth's case can be transferred to the adult system. Forty-six states have a judicial waiver provision, in 15 states, the transfer is through prosecutorial discretion, 29 states transfer is by categorical exclusion based on the offense. In some places, if a youth engages in a crime while involved in a gang or some other behavior, that makes the case eligible for transfer to the adult court. Juvenile courts transferred approximately 8,500 youth to the adult system in 2007 though judicial waiver statutes.

Finally, some states have a form of ***blended sentencing,*** where the juvenile courts are given power to impose a juvenile disposition, but if that youth does not succeed, they may then be transferred to the adult system on the same conviction.

Every public safety system draws the line between being a juvenile and being an adult differently.

Each of the 50 states, the District of Columbia and the federal government have different mechanisms that can transfer a youth to the adult court, and the "age of jurisdiction" of the juvenile justice system varies from place to place. According to the National Center on Juvenile Justice – a research entity representing juvenile and family court judges – 23 states and jurisdictions have no minimum age at which a youth can be transferred to adult court for certain offenses.[4] While some states see juvenile court jurisdiction run through age 15, in others, you are not an adult for criminal justice purposes until age 18.

Age	Oldest age for original juvenile court jurisdiction in delinquency matters
15	New York, North Carolina
16	Georgia, Illinois, Louisiana, Massachusetts, Michigan, Missouri, New Hampshire, South Carolina, Texas, Wisconsin
17	Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wyoming

Source: National Center on Juvenile Justice (2009)

There are also various legal mechanisms a judge or prosecutor can choose to transfer a youth charged with a particular crime to the adult system. Similarly, the research on adolescent development that has driven so many recent changes to juvenile justice statutes also doesn't provide a "bright line" for drawing when a 15, 16 or 17 youth may have the mixture of impulse control and reason to be considered an adult, with some researchers calling to include older youth in the their 20s in the juvenile justice system.[5] In recent Supreme Court rulings on the juvenile death penalty and juvenile life without parole, the courts have made changes to the law that suggest, adulthood begins at age 18. Finally, different juvenile corrections systems have different maximum ages that they can have youth in custody: in California, Montana, Oregon and Wisconsin, a youth can be in the custody of the state juvenile justice system until age 25.

This monograph is focused on all youth under the age of 18. However, we acknowledge that the way the corrections system works, a youth who begins with corrections at 16 or 17 can remain under custody into their twenties: many of the issues and challenges systems face in serving these youth continue past their 18th birthday.

Age	Oldest age over which the juvenile court may retain jurisdiction for disposition purposes in delinquency matters
18	Alaska, Iowa, Kentucky, Nebraska, Oklahoma, Tennessee
19	Mississippi, North Dakota
20	Alabama, Arizona,* Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Idaho, Illinois, Indiana, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Hampshire, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wyoming
22	Kansas
24	California, Montana, Oregon, Wisconsin
**	Colorado, Hawaii, New Jersey

Note: Extended jurisdiction may be restricted to certain offenses or juveniles.

Source: National Center on Juvenile Justice (2009)

2) Youth transferred to the adult corrections system recidivate at a higher rate than those kept in the juvenile justice system.

The weight of the research reviewing the public safety impact of sending youth to the adult corrections system has found that youth tried as adults are more likely to reoffend, even when controlling for offense background and other characteristics, than comparable youth retained in the juvenile system. The Centers for Disease Control and Prevention Task Force on Community Preventive Services[6] conducted a systematic review on the transfer of youth to the adult system. The Task Force found:

- **Transferring juveniles to the adult justice system is counterproductive as a strategy for deterring subsequent violence:** Youth who are transferred from the juvenile court system to the adult criminal system are approximately 34% more likely than youth retained in the juvenile court system to be re-arrested for a violent or other crimes.
- **Insufficient evidence that transferring youth to the adult criminal system prevents youth crime:** The Task Force found insufficient evidence to justify assertions that trying youth as adults acts as a deterrent to prevent youth from committing crime in the first place.

In June 2010, the Department of Justice's OJJDP released a monograph, "*Juvenile Transfer Laws: An Effective Deterrent to Delinquency?*[7]"The research bulletin compiled by Professor Richard Redding found that, laws that make it easier to transfer youth to the adult court system have little or *no general deterrent effect on youth*, meaning they do not prevent youth from engaging in criminal behavior. The report also found that youth transferred to the adult system are more likely to be rearrested and to reoffend than youth who committed similar crimes, but were retained in the juvenile justice system.

3) Little is known about young's people prior offense backgrounds, the court processes and decisions that impact them, and how corrections systems manage youth.

> *"There are no systems dedicated to collecting data on transfer today."*—Howard Snyder Bureau of Justice Statistics.[8]

The 51 states and jurisdictions and the federal government each have the authority to run their respective public safety systems, which usually includes a partnership between state, county and city courts and corrections. This reality means that our ability to have national understanding of what is happening to youth when they are transferred to the adult system is frustrated by the diverse ways juvenile and adult corrections operate.

While the public safety system is collecting and analyzing more data than ever before, there are significant gaps in how data and information are processed that obscure the national picture around juvenile transfer. As one national expert recently noted, "the whole pathway is missing"[9] in terms of having national data sets that would allow one to know,

how and why youth end going to the adult system, and what happens to youth and the systems that serve them, downstream.

Information compiled by national agencies like the Office of Juvenile Justice and Delinquency Prevention, the National Center on Juvenile justice (OJJDP), the Bureau of Justice Statistics (BJS) and information compiled by state and local entities do sketch out the basics of how youth end up in the adult corrections system. However, the national picture one can document from national data has been described as fragmented and incomplete, with little ability to know exactly how pretrial, post-conviction and supervision systems are managing this population.

Among the biggest gaps in information why youth end up in the adult system, there is very little information that explains the "how's and why's "behind decisions to transfer youth to the adult system. Currently, only 13 states publicly report the total number of their transfers, and even fewer report offense profiles, demographic characteristics, or details regarding processing and sentencing.[10]

Critical information that currently is not collected or analyzed on juveniles who are transferred to the adult system on national basis includes:

- **How a youth's case is resolved?:** From the decision to prosecute the case in the adult system, to what charges youth are ultimately convicted of, and what their sentence is, little information on the court process are available.
- **How many youth who start in the adult system return to the juvenile system?:** There is no information on how many youth end up back in the juvenile system through blended sentencing, or if their charges are dropped, and recharged as a juvenile.
- **When youth are transferred, what kind of services do they receive?:** While we do know youth are required to receive certain kinds of educational services wherever they are incarcerated, there is no information on the kinds of services, interventions and programming youth may be receiving while in custody, or when they return to the community.
- **How many youth are on adult probation and parole?:** We do not know how many youth are on adult or juvenile probation and parole as result of an adult conviction, the nature of that supervision, and what kinds of services or interventions they might be receiving.

4) On any given day, there are 10,000 youth in adult prisons and adult jails. Most of these youth in adult custody were convicted of robbery and assault, and most and the vast majority will return to the community before age 21.

Data from the BJS that looks at the age of youth in adult prisons and jails has shown that, in 2009, there were 2,778 youth are in adult prisons, and approximately 7,220 in adult jails.[11]

Most youth who end up in the adult system were convicted of robbery or aggravated assault: these may be serious crimes, but these offenses generally do not carry the longest prison terms. A monograph reviewing the research on youth in the adult system for OJJDP, of those youth who end up in the custody of the adult system, 80 percent will be released from prison before their 21st birthday, and 95 percent will be released before their 25th birthday.[12] However, there are also 2,589 people serving Life-Without Parole for a crime they were convicted of when they were a juvenile.[13]

5) Youth of color have been disproportionately represented among those youth transferred to the adult corrections system

As is the case in the juvenile justice system, youth of color are disproportionately impacted by the changes in statute that allow for their transfer to the adult system. African American youth make up 30% of those arrested while they only represent 17% of the overall youth population. At the other end of the system, African-American youth are 62% of the youth prosecuted in the adult criminal system and are nine times more likely than white youth to receive an adult prison sentence.[14] While information is harder to obtain on the Hispanic population due to the challenges in compiling criminal justice data on this population, Hispanic youth have been found to be 43% more likely than white youth to be waived to the adult system and 40% more likely to be admitted to adult prison.[15] Compared to white youth, Native American youth are 1.5 times more likely to receive out-of-home placement and are 1.5 times more likely to be waived to the adult criminal system. Nationwide, the average rate of new commitments to adult state prison for Native youth is 1.84 times that of white youth.[16]

6) Many youth end up in the adult system as a result of plea agreements, and are convicted of offenses in the adult court with reduced sentences.

While every state is different, research done on how juvenile transfer laws work in a number of states have found that most youth who face an adult charge are not convicted of that charge. Instead, the court process that sees a youth charged with an adult offense – an act that can move their case to the adult system – will also see these youth plead to a lesser included offense that carries a different penalty. In some cases and places, a judge may have an opportunity to return the case to the juvenile justice system for sentencing, but the youth may still be detained in pretrial as they await their disposition. One expert convened by NIC reported, as many as 75 percent of those transferred to adult court as a result of a charge are eventually convicted of a lesser offense.[17] Plea agreements may result in a prison term, probation, or depending on the rules in a given state, transfer back to the juvenile justice system.

How might we learn more about the pathway youth take through the adult system?

There are future research initiatives by federal entities that will expand our understanding of both the *why and how* youth end up in the adult system, and what public safety results we may be getting for it.

The Bureau of Justice Statistics has embarked on a new data collection effort to learn more about this population. A nationally representative sample study of 120 counties to look at all the cases that deal with persons under the age of 18 will be shortly underway. When studied, this data would give great detail on the individual cases of youth from 120 counties. In addition, BJS is also conducting a recidivism study to know the public safety outcomes for youth who left prison in 2005 from 30 states: BJS is currently is looking at 70,000 people who left prison in 2005 in 30 states. They are evaluating the recidivism rates of younger offenders compared to older offenders. This allows for state-by-state variation, and will provide more information about transfer cases.

Options for corrections systems, and federal, state and local policymakers:

1) **Encourage more research at the state, county and local criminal justice level on the system implications of transfer.** As demonstrated in what know about transfer, the best data and information that tells policymakers the most about "the invisible pathway" of juveniles who are tried as adults can be found from analysis of the information at the state, county or city level. Studies done by academics, state, county and city agencies, and nonprofit organizations that have mapped the pathway in their jurisdictions have revealed most information on why and how youth end up in the adult public safety system, what happens to them, and what the outcomes of those decisions were. States, counties and cities whose varied corrections systems are impacted by the process and outcomes of juvenile transfer should be encouraged to study these issues, and map out the pathway at the local level.

2) **Match resources for national research efforts with local analysis.** It is encouraging that BJS has returned to the forefront of analyzing how local criminal justice systems make the transfer decisions, and document their outcomes. However, the best and most relevant information to policymakers on that influence policy change at the local level is conducted at the local level. Through various national justice research entities, the federal government could incentivize the collection of this research by funding research solicitations at the local level.

III. What are the issues, impacts and options facing public safety systems when youth are awaiting trial on adult charges?

"The average 14-year-old is a "guppy in the ocean" of an adult facility. The law does not protect the juveniles; it says they are adults and treats them as such. Often they are placed in isolation for their protection, usually 23 ½ hours alone. Around age 17, we put him in the young head population, a special unit where all the youth are put together, and the 13 and 14 year olds normally fall prey there as well."—Sheriff Gabe Morgan, Newport News, Virginia.[18]

"The American Jail Association is opposed in concept to housing juveniles in any jail unless that facility is specifically designed for juvenile detention and staffed with specially trained personnel." (2008 policy statement)

"Counties are urged to remove juveniles from correctional facilities which detain accused or adjudicated adults."—National Association of County Organizations (2009) policy statement)

"In Georgia, kids being held pre-trial weren't being treated differently from adults. When kids are in adult facilities, I am not sure there is much learning going on that would enable the kids to mature."—Orlando Martinez, former director, Georgia Department of Juvenile Justice.[19]

There is very little national information on what happens to a youth when they are initially moved to the adult criminal justice system through various legal mechanisms. In the majority of states across the country, youth may be held pretrial in an adult jail, while in some states and jurisdictions, youth are held pretrial in juvenile detention centers. Youth may also be on some form of pretrial release in the community.

How a youth is handled as they await the resolution of their case raises a variety of issues for state and local public safety systems as they work to fulfill a mandate to keep youth safe, and provide appropriate services for their rehabilitation.

1) National standards on "jail removal" and "sight-and-sound" regulations for youth in the adult system do not apply to juveniles charged as adults.

The Juvenile Justice and Delinquency Prevention Act (JJDPA)—the federal act which enables the federal government to promote national standards and drive national policy to reduce juvenile crime and help youth succeed—has sought to limit the incarceration of juveniles in adult jails for three decades. The Act's "jail removal core protections" prohibits states and counties from placing youth in the juvenile justice system in adult jails, except in very limited circumstances. Under rare circumstances when juvenile justice youth are allowed to be jailed, regulations prohibit their contact with adult inmates. If states do not follow the rules on "sight and sound" regulations in managing juveniles in jails, states risk losing hundreds of millions of dollars in federal youth crime prevention funding.

The rules around management of juveniles who might end up in jail do not extend to youth who may be transferred to the adult court, and tried in the adult justice system. As state law changed, and more youth ended up in the adult system, more youth were found to be in adult jails, pretrial, awaiting the disposition of their charge.

Most states permit the pre-trial detention of youth being tried as adults in adult facilities, 10 states actually require youth in the adult system be housed in jails.[20] Of the 39 states that allow youth to be jailed, only 20 states have protections for youth (e.g., requirements that youth be separated by sight and sound from adult inmates), and six states have age restrictions on the pre-trial detention of youth in jails.[21]

National data shows that, adult pretrial correctional agencies will be dealing with thousands of youth who are under their supervision because they have been tried as adults. The most recent data show that, there are 7,220 people under age 18 in jails on any given day.[22] The annual number of youth who are placed in adult jails is even higher – ten or twenty times the daily average according to some researchers – to account for the "turnover rate" of youth entering and exiting adult jails. [23]

2) Where youth are held, pretrial, depends on local policies or preferences.

> *"This is an extremely idiosyncratic issue; everyone is doing it differently state by state and even within counties."*—Vincent Schiraldi, Director of New York City's Probation Department.[24]

Information provided by experts in adult and juvenile corrections revealed the diverse approaches places take to managing youth, pretrial, who have ended up in the adult system through variety of pathways.

- **Virginia: Youth may be detained in the juvenile system, pretrial.** Under legislation passed in 2009, and implemented in 2010, Virginia created a presumption that youth who are being tried as adults are held in juvenile detention centers pretrial and will only be placed in an adult jail if they are found by a judge to be a security or safety threat.[25]
- **Oregon: Six out of 36 counties seek to hold pretrial youth in juvenile detention.** In Oregon, at-least 6 of the 36 counties take steps to hold youth facing charges in the adult system in a juvenile detention center or a juvenile corrections facility.[26] To encourage other counties to do so, Oregon legislators passed House Bill 2707 in 2011 to make juvenile detention facilities the default placement of youth in adult court making it more likely that youth will now be housed in juvenile detention facilities.
- **New York City: Hundreds of youth at Riker's Island.** In a state where 16 and 17-year-olds are automatically adults for purposes there are 700 youth in Riker's Island Jail who under the age of 18, 670 of whom are pre-trial.[27]

- **Baltimore, Maryland: Hundreds of youth in jail.** In a state where youth can be automatically excluded from the juvenile court if they are under 18 and commit certain crimes, in recent years, Baltimore city has had between 100 and 140 youth in the city jail. The state is currently debating whether to build a specialized facility to detain youth charged as adults while awaiting trial.[28]
- **Harris County, Texas: Hundreds of youth in jail.** In a state where the age of jurisdiction in the juvenile system ends at age 16, there were 198 17-year-olds held in the county jail. When juvenile under age 17 are transferred to the adult court by a judge, they are not supposed to be jailed, but sometimes are because staff are not available to transport them to another custodial setting.[29]

In the study "Jailing Juveniles," pretrial experts commissioned by the Campaign for Youth Justice analyzed national databases on pretrial populations to try to learn, what was happening to youth in 40 counties where a variety of different transfer laws were used.[30] Findings from the 40 counties in the late-1990s showed that, of *5,000 youth transferred to the adult system, two thirds were held, pretrial, in the adult jails.*

3) What issues can adult pretrial corrections systems face when youth are transferred to the adult court?

Pretrial systems face a number of issues, challenges and opportunities managing youth when they are transferred to the adult court, and end up in the adult pretrial corrections system. The most critical issues tend to cluster around the ***safety*** of young wards in the system, the ***services*** they receive, and how the ***costs*** of serving them can impact the whole public safety system.

a) Safety challenges

A number of different research authorities have shown, youth in an adult pretrial setting face increase risks of self-harm and abuse by other detainees. According to a BJS study in 2005 and 2006, 21% and 13% respectively, of the victims of inmate-on-inmate sexual violence in jails were youth under the age of 18[31] – a high percentage of victims considering that only 1% of all jail inmates are juveniles.[32]

Recognizing the risks to youth in jails, some jail administrators separate youth from adult inmates inside the facility—something that has implications for these institutions, and these youth.

If these youth are placed isolation, depending on the duration and the policies in place, isolation may aggravate mental health challenges that many youth bring with them into the justice system. For youth facing mental health challenges, isolation or seclusion can aggravate or cause anxiety, paranoia, exacerbate disorders, and increase their risk of suicide. Data from BJS show that 75% of all deaths of youth under 18 in adult jails were due to suicide.[33]

Jail administrators can face a difficult choice on this issue: They can house youth in the general population where they are at a differential risk of physical and sexual abuse, or, house youth in a segregated settings where isolation can cause or exacerbate mental health problems.

b) Service challenges

Youth have specific education, treatment and health needs that adult pretrial institutions may find challenging to provide.

Even though legally required to, what data exists on the kinds educational services jails provide appropriate suggest the challenge jails may have in providing age appropriate services to the youth in their midst, particularly for young defendants that may have greater special education needs. Although nearly 30% of jail inmates under age 24 reported having a learning disability,[34] a BJS survey found that 40% of jails provided no educational services at all, only 11% of jails provided special education services, and only 7% provided vocational training.[35]

From intake processes to meals to health care, adolescents have specific needs that jails will be pressed to deliver. Youth have different nutritional requirements because they are growing so rapidly. Vision and dental health are two additional areas that change during adolescence and require special attention, an effective approach to dealing with youth would need to find ways to provide services.[36]

c) Cost Challenges for Adult and Juvenile Pretrial Systems

The challenge for adult pretrial corrections agencies to provide age appropriate services to juveniles, and keep them safe in the context of an adult jail all can drive up the system costs for serving these youth. It is no surprise that juveniles might be a jail systems most expensive ward: their educational, behavioral health, nutritional and medical services can be more expensive, and if they are segregated, those units may cost more than to keep these youth in the general population.

During these fiscally challenging times, juvenile detention centers are also feeling the squeeze of funding cuts. Along with the higher costs that a juvenile detention center might be paying to meet a youth service and rehabilitative needs while in custody, juvenile defendants facing trial in adult court may have a longer length-of-stay. The survey of 40 counties as part of the "Jailing Juveniles" report found that, the majority of the 5,000 youth studied spent at least one month in jail, and one in five of these youth will have spent over six months in an adult jail.[37] As youth in juvenile detention for an offense under the jurisdiction of the juvenile justice system are more likely to be referred to community-based detention alternative, they are more likely to have a shorter length-of-stay while in pretrial custody.

In summary, while there is a definitely an increased cost for young pretrial defendants facing transfer to the adult system, the two drivers of those costs – the defendants length of stay, and the kind of services and supervision they receive while in custody—will face any

correctional administrator, *regardless of whether these youth are in a juvenile detention center or a jail.*

3) Can pretrial release strategies be used to rein in pretrial costs?

There are strategies that public safety systems can use to manage the costs associated with the pretrial detention of youth awaiting trial in the adult system.

First, there may be ways to place youth awaiting adult charges on pretrial supervision, as it might work for any adult defendant that would qualify for pretrial release. While there are some youth who, because of their charge, or because of their risk to reoffend, simply would not qualify for release, of all the youth who might be detained pretrial on an adult charge, there is a group who have engaged in nonviolent crimes (such as drug, or property offenses) who might be considered. Studies of youth transferred in the 1990s found that as many as a third of youth who ended up in the adult court were there for nonviolent offense.[38]

Another indicator of whether the youth awaiting pretrial might be safely managed in the community may revolve around the likelihood they'll be convicted of what they were charged with.

Among the 5,000 youth from 40 counties whose initial cases were seen as serious enough to transfer them to adult court in the mid-1990s, as many as one-half of the youth prosecuted in the adult system do not receive an adult court conviction.[39]

Among the experts convened by NIC, one presented data on those 100 or so young defendants that were jailed pretrial in Baltimore, Maryland, awaiting trail on a charge that moved their case to the adult system: More than 60 percent of those youth charged were either not prosecuted (either because they were returned to juvenile court, or the prosecutor decided to not prosecute the case). Only 5 percent of the youth tried as adults in Baltimore in the first six months of 2009 eventually received a sentence to an adult correctional facility—the rest received probation or time served.[40]

Based on their offense, and based on what is known about how most youth charged with adult offenses see their cases disposed of, depending on the pretrial release laws in a given place, there are reasons to believe that significant numbers of youth could be safely managed in the community while awaiting trial.

Options for corrections systems, and federal, state and local policymakers:

1) **Legislators and executives should review where the appropriate place is to manage youth pretrial.** In Virginia, Multnomah County, Oregon, and Los Angeles County, California, local policymakers have had an opportunity to consider the safety, service and fiscal challenges that come with managing young defendants in adult court. These jurisdictions have made flexible policies that make juvenile facilities the presumptive place where youth should be detained pretrial awaiting an adult charge, and the systems safety and security needs. Along the lines of what the

American Jail Association and the National Association of County Organizations have held as their policies, there need to be discussions among legislators and executives over the appropriate place to manage youth, pretrial. Elected officials who are responsible for the entire public safety budget should be encouraged to facilitate these discussions. The costs that a change could have on the system are an important consideration, but the fiscal impact of any change also needs to take in account the benefits of reduced recidivism, and reduced liability to government.

2) **Expand options for pretrial release for young defendants in adult court.** Jail and pretrial administrators can work with the courts and stakeholders to develop pretrial release options for young defendants in adult court. Mindful of the public safety issues involved in individual cases, systems may look at what barriers exist to pretrial release and supervision of juveniles who have been charged with adult offenses. Even if used for only a portion of defendants, the cost savings could be used to improve the systems ability to safely serve those youth who need to be detained awaiting trial.

3) **Consider case processing agreements to between criminal justice stakeholders to structure charging decisions in juvenile transfer cases.** If there are a population of youth who are being detained pretrial due to a charge that carries an adult penalty, it helps no one – not the crime survivor, the corrections system, the prosecutor, the public defender, or the courts—if scarce custodial resources are consumed by defendants who will not be convicted of those crimes, or transferred back to the juvenile system. Systems should encourage the key juvenile court actors to develop case processing agreements between stakeholders to help reduce the time it takes for a case to wind its way through the system. This will help separate the most serious cases from those that may be resolved with a plea, or a transfer back to the juvenile justice system.

IV. What are the issues, impacts and options facing public safety systems when youth are convicted, and committed to the adult system?

"The American Correctional Association supports separate housing and special programming for youths under the age of majority who are transferred or sentenced to adult criminal jurisdiction. [The ACA supports] placing people under the age of majority who are detained or sentenced as adults in an appropriate juvenile detention/correctional system or youthful offender system distinct from the adult system."—American Correctional Association (Public Correctional Policy on Youthful Offenders Transferred to Adult Criminal Jurisdiction, 2009).

"In DOC in Georgia there are 92 children 14-22 years old (90 children 14-17 years old). It is a nightmare to see 14-year-olds in the same population with the adults and "at risk youth."—Derrick Schofield, Assistant Commissioner, George Department of Corrections.[41]

"The juvenile justice system is the most appropriate system to hold youths accountable and receive age-appropriate and effective treatment and rehabilitation opportunities." – The Council of Juvenile Correctional Administrators (2009 Policy Paper).

"Commission urges that individuals under the age of 18 be held separately from the general population." –Prisoner Rape Elimination Act Commission (2008).

In many states, juveniles who are convicted and sentenced in the adult court are committed to adult corrections systems. Some states have developed specialized units that segregate the youngest prisoners. In other states, a juvenile convicted and sentenced in the adult court may start and finish their term of custody in juvenile corrections, or, move to the adult general population at a certain age, or under certain conditions. Finally, in some states youth are placed in the general population.

With the vast majority of youth who are transferred to the adult system due to leave prison by their 25th birthday, how are adult correctional systems addressing the both their safety and rehabilitative needs before they leave prison, and how does that impact the entire adult correctional system?

1) On any given day about 3,000 youth 18 and under are in the custody of an adult prison system.

The latest figures from the BJS show that, there are about 3,000 youth under age 18 under the custody of adult corrections systems. The data is a snapshot of the correctional population in a given day, and does not tell us how many people in adult prison are incarcerated for crimes committed before the age of 18, or how many youth started in an

adult correctional setting before age 18 and continued their sentence into their late teens and twenties. **The length of time a youth can spend in the juvenile justice system versus the adult system can vary.**

While it is hard to know what is the case on a national basis, it isn't necessarily the case that youth who are under the custody of the adult corrections system are spending more time in custody than youth in the juvenile justice system.

According to a study by the California-based Center on Juvenile and Criminal Justice, juveniles who remain in juvenile court serve longer sentences than adults with similar charges. This was especially true for youth convicted of the offense that drive commitments to both the adult and juvenile justice system: *youth sentenced to the custody of the California Youth Authority by juvenile courts for homicide, burglary, theft, rape/sex, and other offenses are confined for longer periods than those sentenced for the same offenses by adult criminal courts.* For offenses such as robbery, confinement time was equal.[42]

One reason this may be the case in some places is, juvenile corrections systems may be more likely to operate under an indeterminate sentencing model: the courts do not necessarily prescribe the length-of-stay to ensure that the youthful offenders get into the necessary treatment programs. When the courts need to hold a youth in custody out of a public safety concern, they may choose the juvenile court over the adult system because they can be involved in youths life for a longer period of time.

When the state Texas revised the oldest age at which the juvenile court may retain jurisdiction for disposition purposes in delinquency matters from 21 to 19, there was a reported increase in the in the number of youth tried as adults.[43] This suggests the length of time someone can be committed to either system relates to which system they might end up in.

2) There are no national standards on how to handle youth committed to the adult corrections system.

As is the case with other areas of adult corrections, there are no national standards governing how youth should be managed and handled once they are committed to the adult system. The closest thing to a national standard – the American Correctional Associations accreditation and standards process—are a voluntary benchmark that corrections agencies can choose to participate in. While these policies call for youth to be in separate housing and to receive separate programming, unlike the JJDPA, states do not lose anything if they choose to not follow these standards (other than lose ACA accreditation).

3) Corrections systems face challenges keeping youth safe, effectively providing for their services and supervision, and containing costs

Adult department of corrections face similar issues to pretrial corrections in keeping youth **safe**, providing age appropriate **services**, and managing the **costs** of these youth in their systems. How public safety systems deal with these challenges vary from state-to-state.

a) Some adult corrections systems separate the wards, by age

One approach corrections systems have taken is to manage the youngest wards in their system has been to operationalize the ACA standards, and keep youth safe, and provide them age appropriate services within their adult corrections systems.

In **Georgia,** the Department of Corrections changed how it handled those youth committed to the adult system. Georgia dispersed the 18-21 year-olds and the 14-18 population was moved to more modern facilities with the appropriate services to keep them safe, educate them, get them the appropriate behavioral health services to prepare them to move to the next level of custody.[44]

Since 1998, the **Nebraska** Department of Correctional Services has operated a stand-alone maximum security confinement facility for male youth convicted and committed as adults. Called the Nebraska Correctional Youth Facility (NCYF), the youthful offenders here range in age from early adolescence up to the age of 21 years and 0 months (to date the youngest has been 14 years, though statute allows for age 10 to be committed). Because of the prison's campus style construction, keeping the "younger" less mature youthful offender (17 and below) separated from the "older" youthful offender (18 and above) has presented safety and staffing challenges. These issues are compounded by the fact that approximately 80% of the youthful population claim gang affiliation: the correctional need to keep opposing gangs separated as well as keeping the younger and older youth separate, exacerbates educational and other programming challenges. Even though the facility manages fewer than less 100 youth,[45] the average annual cost to house a youth at the NCYF is nearly double the cost (approximately $58,000 for each youth, compared to $32,000 for the average adult prisoner). Since youthful offenders comprise less than 3% of the total prison population, the NCYF competes with resources within the overall DOC budget. Staffing and programming are often limited for working with this specialized population: Tight budget constraints often dictate programming that is designed for the "typical" adult male offender, whose average age in the Nebraska system is 33, even though studies have shown that applying adult programming to adolescents rarely results in long term, if any, positive outcomes.

In **North Carolina**, where all 16 and 17-year-olds are under the jurisdiction of the adult corrections system, five youthful offender facilities within the system manage the youngest wards. Male youth who are convicted of felonies are incarcerated in facilities separate from those housing male felons 25 and older. Male felons and misdemeanants under the age of 19 are processed and incarcerated at a separate facility, and males aged 19-25 who receive active sentences for misdemeanors may be housed in the same minimum custody prisons with adult male misdemeanants.[46] In North Carolina, it was reported that in general, the same programming available for adult offenders within the prison system is also offered to some degree for youthful offenders, especially in the areas of academic education and

social skills....Within the prisons that serve youthful offenders, there is limited programming which deals with mental health issues and vocational education needs."

When youth have been separated out from the adult general population, correctional administrators can face staffing challenges, and cost differentials in serving these youth. In Nebraska, juveniles under the adult DOC supervision competed for resources within the overall budget, and there were staffing challenges having the appropriate people that could work with youth, and work with adults on the same campus.

On October 30, 2007, the **Rhode Island** General Assembly repealed a law, enacted just months before, which gave the adult system original jurisdiction over 17-year-olds.[47] Repealing this law returns 17-year-olds to the jurisdiction of the juvenile court. The original law lowering the age of jurisdiction was enacted as a way to close the budget shortfall, and the General Assembly approved the change reluctantly due to the state's dire financial situation.[48] However, shortly after the law was passed, ***legislators realized that it would actually cost more money to safely house 17-year-olds in adult facilities than it would to keep them in juvenile facilities.***[49] It only took a couple of months for the legislature to rectify its mistake and repeal the law. Rhode Island now stands as an example of the fact that, while intuition might suggest that moving children to adult prisons is cheaper and easier than providing them with the services that come with the juvenile system, once all factors are taken into account, housing youth in juvenile detention centers is often the cheaper (and more effective) route.

b) Committing youth with adult convictions to the juvenile corrections system

In other states, correctional administrators and executives have taken an approach to keep youth committed to the adult system by a court in the juvenile corrections system—at least, for the initial commitment.

After a suicide and a subsequent investigation that found inadequate conditions for youth, a policy decision was made by California stakeholders that the **California** Department of Corrections should enter into an agreement with the California Youth Authority to house all youth under the age of 18.

In **Oregon,** youth under age 18 are first brought to the adult Department of Corrections for intake, but are then transferred to Oregon Youth Authority: if the OYA deems that these youth can benefit from their services and have no behavioral issues, they could remain with the OYA until the end of their sentence.

Just as for the adult corrections systems, the population of youth who have been convicted in adult court can tax the resources of juvenile corrections departments. With cataclysmic budget pressures facing both California and Oregon in the last cycle, both states saw legislative proposals considered that would have reduced the upper age at which youth could be served by their juvenile corrections systems: both proposals failed to be enacted.

4) Could the incarceration of juveniles in adult institutions run counter to correctional goals?

Despite the best efforts of the corrections systems that manage youth, why might young with similar offense histories and other similar characteristics reoffend more often when placed in adult institutions?

Dr. Redding in his analysis for OJJDP summarized some reasons why this might be the case, which have significant implications for corrections and public safety systems that are operationalizing these policies.[50]

- **Corrections systems lack age appropriate services and supports:** Youth have less access to rehabilitation and family support in the adult system.
- **Stigma:** Youth may be impacted by the stigmatization or negative labeling effects of being labeled a convicted felon.
- **Resentment:** Youth may have a sense of resentment and injustice about being tried as an adult.
- **Peer deviance training:** Consistent with the literature that youth learn criminal mores and behavior from other juveniles if they are in custody inappropriately, the experience of "peer deviance" training may be more significant than if youth are incarcerated with adults.

Among the stories that group of experts told of the youth in the adult system, one poignantly framed how, despite a systems best efforts, youth can emerge from the correctional experience worst off than when they arrived.

> *"Often youth enter the system for poor behavior, but end up doing hard time, and the system exacerbates the problem. Anecdote: There was a fellow who was severely abused by his father, CPS took him away and he was further abused in a foster home. He acted out and ended up in a juvenile facility. He had PTSD and depression. For his assaultive behavior in the juvenile facility, he ended up in an adult facility in Montana state prison at age 15. He was treated with behavior modification programs (heavy medication and striped down to hospital gown) shuttled back and forth, sexually assaulted, and got involved with gangs. When he turned 18, he was on super lockdown, seriously mentally ill, and had multiple suicide attempts. There was a great deal of denial about his case, but it shows that things starts early and have a way of escalating. These children are ending up doing hard time in the harshest possible conditions that are incubators for mental illness. Some people survive the experience but many more are destroyed."*— Margaret Winter, Associate Director of the National Prison Project of the American Civil Liberties Union, Washington, D.C.[51]

Another expert convened by NIC reported that youth in Maryland jails may also come out of facilities worse than when they came in, due to their contact with more serious offenders.

> *"Gangs are also a big issue in facilities. Kids are coming into the Baltimore city jail unaffiliated but are forced to choose a side for protection, and they are initiated by the time they leave."*— Laura Furr, Youth Initiatives at Community Law in Action, Baltimore, Maryland.[52]

Along with peer deviance training, the challenge of providing an age-appropriate approach to supervise and provide services to youth in locked custody has to take into account the new research on adolescent development that is changing the juvenile justice field. Research published by the MacArthur Research Network on Adolescent Development and Juvenile Justice provides a new basis for considering whether how youth should be managed and served in a custodial setting.[53]

These new series of studies find that by the age of sixteen, adolescents' cognitive abilities—loosely, their intelligence or ability to reason—closely mirrors that of adults. But how people reason is only one influence on how they make decisions. In the real world, especially in high-pressure situations, judgments are made in the heat of the moment, often in the company of peers. In these situations, adolescents' other common traits—their short-sightedness, their impulsivity, their susceptibility to peer influence—can quickly undermine their decision-making capacity.

A very practical implication of the different cognitive abilities of youth in a custodial setting relates to youth's behavior while incarcerated. Studies out of Florida[54] that looked at the behavioral of prisoners by age found, the younger you are, the more likely you were to engage in assaultive behavior. Given what we know about adolescents decision-making capacity, and how impulsivity, peer influence and short sightedness are associated with adolescence, the phrase 'follow the rules, or suffer the consequences' may not work as well with this population.

Options for corrections systems, and federal, state and local policymakers:

1) **Consistent with the research, corrections systems should partner to develop an approach for juveniles and young adults that are consistent with their adolescent needs.** The data is clear that most of those youth who are sent to the adult correction system will return to the community before their mid-twenties. Given what is known about adolescent development and the needs of juveniles and young adults, public safety systems should consider developing a broader approach to curbing crime that doesn't silo youth at age 18, and above. This will involve broader partnerships between juvenile and adult corrections systems, and a clear look at how the needs of a 24 year-old may be different than 18-year-old—and both may different from prisoners in their 30s, and beyond.

2) **Encourage legislators and executives to consider the appropriate place to house juveniles while they serve out their sentence, consistent with the research on recidivism and reoffending.** Adult corrections systems face challenges in keeping youth safe, providing appropriate services, and doing so in a cost-effective way. In some states, juvenile corrections system share correctional responsibilities with adult systems, with an eye towards meeting their rehabilitative needs in an age appropriate matter. Executives and legislators that oversee both systems should work with corrections professionals to build partnerships so that youth who end up in the adult system can receive the most appropriate correctional response available, and ease the impact of managing this population on both systems.

V. What are the issues, impacts and options facing public safety systems when youth who convicted in adult court are on probation or parole?

> *"The juvenile justice system must offer a continuum of services which includes the appropriate resources to meet the needs of children and youth who are victims and/or offenders. Such a continuum should offer a range of services from prevention and early intervention to remedial and extended care and custody while recognizing the importance of partnerships with other systems of service delivery. The priority of this continuum should be, whenever possible, to eliminate the risk of delinquent behavior through primary prevention.... All agencies, acting on behalf of the government and involved in the life of a child or youth must accept the responsibility to provide services or assist in securing appropriate services which guide and nurture children and youth toward healthy and productive adult lives."* – American Probation and Parole Association (1996).

When the public and policymakers debated laws that would ensure "adult time for adult crimes" for juveniles, the assumption was that these youth were the worst-of-the-worst, and required the certainty of an adult correctional setting to enhance public safety. However, 95 percent of the youth convicted in adult court will return to the community before their 25th birthday. In the OJJDP study on juveniles tried as adults, one of the reasons offered for the differential rates of offending included, the impact of a felony conviction on *"reducing the opportunities for employment and community reintegration.[55]"*

What might happen to youth after they leave custody, or what an adult probation sentence might bring, was hardly mentioned in the public debate when states changed their laws to try more youth as adults.

Community supervision – Corrections' Stepchild?

As the Pew Charitable Trust's Public Safety Performance Project has noted, "the public's perception of corrections most commonly centers on prisons and jails—buildings with bars, locked cells and uniformed guards. But far more offenders pay for their crimes through community sanctions, including drug courts, home detention and electronic monitoring, residential facilities with treatment, and day reporting centers.[56]" With, nearly 9 of 10 correctional dollars going to prisons, probation and parole frequently get the short-shrift in attention in budgetary decisions, and policy decisions on how the corrections field can change someone's behavior. Given the lack of attention to the community supervision branch of the corrections system overall, what efforts can this system take to tailor the appropriate kind of response to the youngest probationers and parolees they manage?

1) Little is known on a national level about how many youth are on probation to adult community supervision agencies, and what kind of supervision or services they receive.

There is no national information that documents how many youth are on adult probation or parole as a result of being tried as an adult, or what kind of supervision they might be receiving.

What little is known has been gathered by researchers, policymakers and advocates who have looked at the issue of on a state-by-state, city or county basis, by researchers who have conducted local analysis of particular ways youth are transferred, and where they end up after sentencing:

- **California:** Among the 400 youth who were transferred to the adult system via the state's direct file process in 2003 and sentenced to the adult court, 19 percent (79 youth) were sentenced to probation, and 34 percent were sentenced to probation with jail (139). Looking at the same figures in 2005, a third of youth transferred to the adult court by direct file were sentenced to probation, or probation with jail.[57]
- **North Carolina:** In a state where all 16 and 17-year-olds are under the jurisdiction of the adult court and adult corrections system, during the 2005 calendar year, 3,863 youth (3,109 males, 754 females) under the age of 18 were on probation or parole. In 2001/02, 2,832 youthful offenders entered prison and 10,206 were placed on probation.[58]
- **Chicago, Illinois:** 3,300 youth (age-16 and 17) over a four-year period in Cook County were tried as adults. Of these, the final disposition was known in 2,033. Where the disposition was known, of 2033 cases, 887 were disposed of by probation (43%).[59]
- **Portland, Oregon:** In Portland, Oregon, there are about 100 youth who are annually tried in adult court. On any given day, there are approximately 56 youth on adult probation or parole with who are there as a result of an adult conviction—the bulk of whom are on probation.[60]

2) Probation and parole agencies may not be providing age appropriate services and supervision

> *"With the adult conviction they get no services, education, employment training or health. The [juveniles tried as adults] population does not belong to anyone...neither adult nor juvenile."*—Lonnie Nettles, Director, Family Services Unit, Multnomah County Department of Juvenile Justice.[61]

Experts convened by NIC to discuss the challenges corrections systems and youth face while on community supervision raised concerns that, youth under the authority of probation or parole agencies may not necessarily be the recipients of age appropriate supervision or service strategies.

3) Barriers to a juvenile's reentry exist for on adult supervision that require special attention?

State and federal statutes can restrict anyone with an adult felony conviction from taking certain kinds of jobs, limit where they can live, and depending on the place the crime occurs, juvenile confidentiality provisions do not apply to adults. The "re-entry" barriers that exist for adults returning to the community after a prison term may have a particularly acute effect on juveniles, as they try to navigate the return home, and attempt to transition to adulthood.

In 2004 and updated in 2009, the Legal Action Center monograph entitled, *After Prison: Roadblocks to Reentry: A Report on State Legal Barriers Facing People with Criminal Records*[62] revealed several facts about existing legal barriers for people with criminal records:

- Most states allow employers to deny jobs to people arrested, but never convicted of a crime;
- Most states allow employers to deny jobs to anyone with a criminal record, regardless of how old or minor the record or the individual's work history and personal circumstances;
- Most states ban some or all people with drug felony convictions from being eligible for federally funded public assistance and food stamps;
- Most states make criminal history information accessible to the general public through the Internet, making it extremely easy for employers and others to discriminate against people on the basis of old or minor convictions, for example to deny employment or housing;
- Many public housing authorities deny eligibility for federally assisted housing based on an arrest that never led to a conviction.
- All but two states restrict in some way the right to vote for people with criminal convictions.

Whether they received probation, or had some sort of blended sentence between the adult and juvenile court, the adult conviction a youth receives may lead to a longer-term impact on their ability to get a job, go to school, find housing, and leave their criminal offending behind them.

On challenge facing youth on adult supervision may be, they are required to pay the same fees and fines as adult parolees or probationers, when there also an expectation that they be in school. As one expert convened by NIC on this issue reported, *"in Texas, the probation*

fees for an adult probation are around $600, so 17-year-olds are dropping out of school in order to pay the fees.[63]"

4) Probation and parole sanctions impact youth's safety, and supervision success.

When anyone—an adult or a juvenile—are on parole or probation supervision, and they violate the terms of their release, depending on the law or the policies in that jurisdiction, that person may be sanctioned. Adult probation and parole systems may face significant challenges in having the options available to hold youth accountable, and may rely on jail sanctions as their principal vehicle for keeping youth compliant with the terms of their release. While some adult supervision systems have a range of sanctions available to them that are similar to those used in the juvenile justice system (for example, day and evening reporting centers, electronic monitoring, community service), some systems may lack these options, or may mix youth and adults in the same kinds of programs when they may have other needs. For example, which community service programs are used in both the juvenile and adult arenas, juveniles need to be in school during the day, while some adult service programs run when youth should be in school.

If a system lacks the options to hold youth accountable, they may rely on jail as a sanction, impacting overall public safety system costs without necessarily improving public safety. In Wisconsin, for example, a young woman who was on adult probation and was not meeting the terms of her community supervision agreements was jailed on a probation violation: she was arrested for stealing a bicycle from a neighbor. This 17-year-old young woman ended up being jailed for 75 days on the probation violation.[64]

The challenges jails and corrections system have in keeping youth safe from self-harm and abuse by order inmates has been documented elsewhere in this monograph. Through no fault of the supervision system – which may simply lack options – a jail sanction could put a youth at-risk of harm. In Connecticut, for example, a 17-year-old youth who was on probation, had their supervision revoked, and was sanctioned to jail committed suicide while being incarcerated in a facility under the jurisdiction of the adult correction system.[65]

5) Dual jurisdiction cases can create supervision challenges

Juvenile and adult supervision strategies can be complicated when a youth ends up dually supervised by adult or juvenile supervision systems depending on the age at which they commit their crime. In Washington, DC, there are approximately 50 youth who were committed to the Department of Youth Rehabilitation Services for a crime they committed before age 18, and based on new crime they committed when they were over age 18, are also under the supervision of the adult Court Social Offender Services Administration. Dual supervision complications can include, having more than one case manager from more than one system involved in the supervision, and decisions over which system should provide whatever services the youth might require.[66]

Youth on community supervision: A case study from the Transitional Services Unit

In Multnomah County, the county set up a specific unit (the Transitional Services Unit) where youth who are on community supervision for an adult offense receive age appropriate services and supervision. By fostering a direct collaboration between adult probation and parole and the juvenile department, a youth under the supervision of this unit is managed by an adult probation and parole officer with specific training on working with juveniles, and can access many of the services that youth could if they were still in the juvenile justice system. This is the only known unit in Oregon where an adult probation and parole department provides age appropriate services to juveniles who carry an adult conviction. While the unit has good outcomes while working with this population (six months after they start with the unit, nine out of ten youth were still successfully meeting their obligations) the unit still faces structural challenges in working with this population. Like elsewhere, funding is a challenge: while in Oregon, probation and parole are funded by the state, because these youth are legally adults, state funds cannot be used to pay for certain additional needed juvenile services, such as mentoring, and housing. Funding for these services through TSU are paid by the county, which may represent a barrier for this kind of model being used under-resourced counties. Second, similar to the dual jurisdictional challenges facing supervision systems in other state, if a youth under TSU's supervision commits a new minor new crime, they can end up being under adult supervision with secondary juvenile convictions.

6) While juveniles tried as adults cross systems, funding for services may not

As suggested by the story from Multnomah County, depending on which level of government controls juvenile and adult corrections (and both systems supervision systems), there may be challenges to paying for the service needs of youth once they cross the legal divide into the adult system. Without taking into account any cost-benefit from reduced recidivism gained by successfully rehabilitating a juvenile, their educational, employment and treatment needs may be more resource intensive, and more expensive than what is provided for under an adult probation and parole systems funding model.

According the analysis done in North Carolina that looked moving 16 and 17-year-olds into the juvenile justice system, it was calculated the cost for community services on the juvenile side were 33% higher than on the adult side. The education cost alone were 40% higher. However, part of the reason for the increased costs was due to an increased likelihood that someone under juvenile supervision would be more likely to receive services, and sanction: *"for persons who are arrested, there is a greater chance of receiving services and sanctions in the juvenile system than in the adult system....this makes the business of juvenile justice more costly, relative to the adult system.*[67]" In other words, because youth under juvenile justice supervision were more likely to be held accountable and served due to their risk and needs, the costs were higher to have the youth under juvenile community supervision.

Finally, among the federal funding streams that can be used to support effective re-entry strategies to support the supervision of individuals in the community, it isn't clear where youth who are tried as adults fall between the various funding streams. The various pools of funding that follow juveniles that are tied to the Juvenile Justice and Delinquency Prevention Act are tied to one being in the juvenile justice system. Under the relatively new Second Chances Act, those youth who are tried with adults will be competing amongst a huge pool of millions of adults on probation and parole supervision.

Options for corrections systems, and federal, state and local policymakers:

"The answer is community supervision of juveniles who have been convicted as adults, both probation and re-entry, using a developmental model of how these kids live their lives as opposed to how a 45-year-old does. This gives the capacity of the community, at the community level, to supervise well and with the necessary resources."—Shay Bilchick, former Director of the Office of Juvenile Justice and Delinquency Prevention, and Director, Center for Juvenile Justice Reform, Georgetown University, Washington, D.C.[68]

1) **Provide age and developmentally appropriate case management and supervision for juveniles who are on adult probation or parole.** Due to their offense and the law in a given place, a young offender in their teens may end up on an adult supervision caseload. However, a teenager's rehabilitative needs are different than those of a 30 or 40-year-old offender. Adult probation and parole systems should seek to build age and developmentally appropriate supervision strategies to ensure that the youngest probationers and parolees can receive the services and attention they need to successfully transition to adulthood, and have the best chance to avoid reoffending. Multnomah County's Family Services Unit provides an interesting model for adult probation and parole departments to consider as they seek to build successful supervision partnerships between juvenile and adult systems. Executives and legislators that oversee juvenile and adult supervision systems can play a role in helping build effective strategies to serve these youth.

2) **Clarify which federal and state funding streams can pay for specific age appropriate services for juveniles while on probation and parole.** Without federal stimulus funds to support state and local governments and with the national recession lingering, Fiscal Years 2011 and 2012 will continue to be tough times for federal, state and local governments, and all the public safety services they support. As executives and legislators begin to scrutinize every dollar that flows through the corrections system, they should clarify how federal and state funding streams can serve youth, regardless of which supervision system they may be in. In particular, policymakers should clarify how the relatively new funding through the federal Second Chances Act can be used to meet the needs of youth moving between adult and juvenile systems, and how they can be prioritized among the pool of millions who need help to safely return home.

3) **To make effective supervision cost effective, state legislators and executive could consider incentivizing case management of youth through "Justice Reinvestment" strategies.** To help ease the costs of providing the right supervision for youth, if new probation and parole strategies succeed in reducing the number of youth revoked or re-arrested, a portion of the custodial savings should be reinvested to help fund these effective community supervision strategies. Fiscal incentives to improve community-based supervision have been successfully used to improve public safety and reduce costs in Ohio, Illinois, California, Wisconsin, and Oregon.[69]

VI. Conclusion

Corrections and the entire public safety system needs to focus on the successful strategies to curb delinquency, and positive youth development.

During the 1990s, nearly every state in the nation took some steps to alter their statutes so that the youngest offenders can be more easily tried in adult court, and sent to adult corrections systems. Yet in recent years a number of states are reconsidering this choice based on the research that has demonstrated the negative consequences these laws have had on youth and public safety. From 2005 to 2010, fifteen States have made significant progress in addressing the needs of youth who are prosecuted in the adult criminal justice system. Many states – including Connecticut, Mississippi, Delaware, and Illinois—have made significant changes to laws that have had the effect of reducing the number of youth in their adult corrections systems, and realigned funding and functions within public safety budgets to serve youth in other parts of the system.[70] On the national level, a version of the reauthorization bill for the Juvenile Justice and Delinquency Prevention Act has included an extension of the jail protections of juveniles to youth who have been transferred to the adult system.[71]

The leading professional associations in the field of corrections have all encouraged legislators, executives and their members to review policies and statutes so that, young offenders can received the critical service and supervision they need, in an appropriate correctional setting.

This monograph is the first step by NIC to encourage a dialogue within our field to consider, how corrections professionals and systems can fulfill their rehabilitative and custodial mandate with one of the diverse populations they see. Over the next year, NIC will be presenting the findings of this monograph to constituents and stakeholders to seek feedback, and identify other options corrections systems and their partners have to improve they way we help youth leave delinquency behind them. As with other challenges that have faced corrections systems, NIC expects our field, and the legislators and executives who oversee us to seriously and soberly consider and choose policy options to keep youth in the adult system safe, meet their rehabilitative needs, and prepare them to return to the community, and transition to adulthood.

Appendix I: Summary of Policy Recommendations

This monograph includes the following options for federal, state, and local policymakers to consider

1. Fill Gaps in Data Collection

Encourage more research at the state, county and local criminal justice level on the system implications of transfer. Studies done by academics, state, county and city agencies, and nonprofit organizations that have mapped the pathway in their jurisdictions have revealed most information on why and how youth end up in the adult public safety system, what happens to them, and what the outcomes of those decisions were. States, counties and cities whose varied corrections systems are impacted by the process and outcomes of juvenile transfer should be encouraged to study these issues, and map out the pathway at the local level.

Match resources for national research efforts with local analysis. The best and most relevant information to policymakers on that influence policy change at the local level is conducted at the local level. Through various national justice research entities, the federal government could incentivize the collection of this research by funding research solicitations at the local level.

2. Revisit Policies Allowing Youth to be Held in Adult Jails Pretrial

Legislators and executives should review where the appropriate place is to manage youth pretrial. Jurisdictions across the country have begun to make juvenile facilities the presumptive place where youth should be detained pretrial awaiting an adult charge. Elected officials who are responsible for the entire public safety budget should be encouraged to facilitate these discussions. The costs that a change could have on the system are an important consideration, but the fiscal impact of any change also needs to take in account the benefits of reduced recidivism, and reduced liability to government.

Expand options for pretrial release for young defendants in adult court. Jail and pretrial administrators can work with the courts and stakeholders to develop pretrial release options for young defendants in adult court. Mindful of the public safety issues involved in individual cases, systems may look at what barriers exist to pretrial release and supervision of juveniles who have been charged with adult offenses. Even if used for only a portion of defendants, the cost savings could be used to improve the systems ability to safely serve those youth who need to be detained awaiting trial.

Consider case processing agreements between criminal justice stakeholders to structure charging decisions in juvenile transfer cases. Systems should

encourage the key juvenile court actors to develop case processing agreements between stakeholders to help reduce the time it takes for a case to wind its way through the system. This will help separate the most serious cases from those that may be resolved with a plea, or a transfer back to the juvenile justice system.

3. Appropriately Manage Youth on Adult Probation or Parole

Provide age and developmentally appropriate case management and supervision for juveniles who are on adult probation or parole. Due to their offense and the law in a given place, a young offender in their teens may end up on an adult supervision caseload. However, a teenager's rehabilitative needs are different than those of a 30 or 40-year-old offender. Adult probation and parole systems should seek to build age and developmentally appropriate supervision strategies to ensure that the youngest probationers and parolees can receive the services and attention they need to successfully transition to adulthood, and have the best chance to avoid reoffending.

Clarify which federal and state funding streams can pay for specific age-appropriate services for juveniles while on probation and parole. As executives and legislators begin to scrutinize every dollar that flows through the corrections system, they should clarify how federal and state funding streams can serve youth, regardless of which supervision system they may be in. In particular, policymakers should clarify how the relatively new funding made available through the federal Second Chances Act can be used to meet the needs of youth moving between adult and juvenile systems, and how they can be prioritized among the pool of millions who need help to safely return home.

To make effective supervision cost effective, state legislators and executive could consider incentivizing case management of youth through "Justice Reinvestment" strategies. To help ease the costs of providing the right supervision for youth, if new probation and parole strategies succeed in reducing the number of youth revoked or re-arrested, a portion of the custodial savings should be reinvested to help fund these effective community supervision strategies.

4. Address Needs of Youth Sentenced to Adult Prison

Juvenile and adult corrections systems should partner to develop an approach for juveniles and young adults that are consistent with their adolescent needs. The data is clear that most of those youth who are sent to the adult correction system will return to the community before their mid-twenties. Public safety systems should consider developing a broader approach to curbing crime that doesn't silo youth at age 18, and above.

Encourage legislators and executives to consider the appropriate place to house juveniles while they serve out their sentence. Adult corrections systems face challenges in keeping youth safe, providing appropriate services, and doing so in a cost-effective way.

Executives and legislators that oversee both systems should work with corrections professionals to build partnerships so that youth who end up in the adult system can receive the most appropriate correctional response available, and ease the impact of managing this population on both systems.

Appendix II: Attendees and Contributors

National Institute of Corrections Convening on Youthful Offenders in the Adult Criminal Justice System

June 18, 2010

Participant List

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Reginald Dwayne Betts, Open Society Institute Fellow, Maryland

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Alexander Busansky, President, National Council on Crime and Delinquency, Oakland, California

Betty Chemers, National Academies, Washington, D.C.

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Laura Furr, Senior Director, Youth Justice Initiatives CLIA, Inc., Baltimore, Maryland

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Mark Levin, Texas Public Policy Foundation, Austin, Texas

Orlando Martinez, Senior Associate, Martinez-Group, Atlanta, Georgia

Gabe Morgan, Sheriff, Newport News, Virginia

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Ashley Nellis, Research Analyst, The Sentencing Project, Washington, D.C.

Lonnie Nettles, Community Justice Manger, Multnomah County Community Corrections, Portland, Oregon

Patricia Puritz, Executive Director, National Juvenile Defender Center, Washington, D.C.

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Vincent Schiraldi, Commissioner, Department of Probation City of New York, New York, New York

Derrick Schofield, Georgia Department of Corrections, Atlanta, Georgia

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Hilgendorf, Shawn (Council)

To: Wade, Diamond (Council)
Subject: RE: The Comprehensive Youth Justice Amendment Act of 2016

June 6, 2016

DC Council Members
RE: Grant D. Moctar (05881-007)
Attn: Ms. Diamond Wade

To Whom this May Concern:

I am writing you on behalf of Grant David Moctar (an inmate at the Beaumont Penitentiary in Beaumont TX , with case origination in the District of Columbia) In reference to " The Comprehensive Youth Justice Amendment Act of 2016". As I understand it the bill is being created to address juveniles that were sentenced as adults, but does not address retroactive standing. I would like the Council to consider amending the bill to include past cases.

Grant was sixteen (16) years old when he was charged with conspiracy to commit robbery as a result of a drug deal gone bad. The charge followed a seventeen (17) count indictment that carried a mandatory sentence of life in prison, he was seventeen (17) when convicted. He is now 42.

While incarcerated he sought and completed his GED, and went on to take college courses. Programs were eventually pulled due to lack of funding, but he didn't allow that to stagnate his growth. He has continued to read, and learn as much as he could. He spends his days reflecting on his mistakes with remorse and sadness, not for himself but for the lives he has effected. He turns to his faith to ask for constant forgiveness for the sinful acts of a child, in hopes that it will somehow heal the soul of the man he has become.

There are several reasons why congress should pass a Bill that would reform the way juveniles are being sentenced as adults in Washington D.C Courts.
(a) The United States Supreme Court ruled in the case of (Miller vs. Alabama 132 S.CT 2464) That, under the 8th amendment to the United States Constitution "children" Meaning juvenile offenders, are constitutionally different from adults for purposes of sentencing. The Supreme Court Justices agreed with scientific evidence that children are very different according to their stage of mental development. Children are naturally more immature, impetuous, failure to appreciate risk and consequences, easily to be influence by environmental factors including peer pressure, incompetence associated with youth when confronted with the legal justice system, inability to deal with police or prosecutor as well as his incapacity to effectively assist their own attorneys.
(b) There is NOTHING in Washington D.C statutes that mandates or says that juveniles who are facing adult sentences have to be assessed in mitigation when they are being sentenced. This means, there is nothing in the judges' rule book that requires sentencing judges to consider juvenile's age and hallmarks of adolescence, despite the Supreme Court recent ruling in (miller) requiring all judges to do so. We must let congress know that any lengthy sentence of 30,40,50 years imposed on kids is wrong and unconstitutional because it serves as the functional equivalent of a life sentence.
(c) The United States Supreme Court Judges also agreed that scientific evidence suggest that juveniles have the best chances to rehabilitate because their brain are still developing. But what is the purpose of rehabilitation if the child does not have a meaningful opportunity to go home and become a productive member of society as a result of the extraordinary long sentences carried out in D.C courts.
I sincerely hope the Council will consider this request and allow the bill to be amended to include cases retroactively.

Thank you for your consideration.

Sonja James
2953 Tomorrow Drive
Kissimmee Fl 34743

Cell: 240/299-3642
Email:sonjames1@yahoo.com

Dear Mayor Bowser and Councilmembers,

My name is Maxime Kwarteng and I am writing the following in support of the Comprehensive Youth Justice Amendment Act of 2016. I find it important to profess my support for this bill because it ameliorates serious issues within the District of Columbia juvenile justice system.

Courts within the district must be required to take the peculiar condition of juveniles into account when administering sentences. The Supreme Court has routinely discussed this peculiar condition in its holdings. In *Graham v. Florida*, the Supreme Court noted that "parts of the brain involved in behavior control continue to mature through late adolescence." 560 U.S. 48, 68 (2010). For this reason, juveniles are generally less culpable than adults for their criminal or poor decisions due to the large factor that age plays in brain development. This is precisely why I am in support of the Comprehensive Youth Justice Amendment Act of 2016. Its prohibition of sentences to life without parole and mandatory minimums for juveniles ensures that courts within the District of Columbia are required to give deference to juvenile respondents' limitations.

This bill also aims to provide families within the District of Columbia with much needed information in regards to the juvenile justice system. If the Comprehensive Youth Justice Amendment Act of 2016 is implemented, the Department of Youth Rehabilitation Services will be required to publish a manual for families that will provide information on the services and operations it offers. During my time as a student attorney for the District of Columbia Law Students in Court Juvenile Justice Clinic, it became clear that the juvenile justice system works far better when a juvenile's family is informed. It enables families to intelligently cooperate with the courts so that juvenile violators can be rehabilitated effectively and efficiently.

For the reasons outlined above and many others, I passionately support the Comprehensive Youth Justice Amendment Act of 2016.

Thank you for your time,

Maxime Kwarteng

Mildred Boyce
3600 B StSE
Washington DC 20019
June 2, 2016

Councilmembers
The Committee on the Judiciary
1350 Pennsylvania Ave. NW
Washington, DC 20004

Re: Judiciary Public Hearing on B21-0683 "Comprehensive Youth Justice Amendment Act of 2016"

Dear Councilmembers:
My name is M. Boyce I'm writing to you today because my grandson and I just found out about this hearing to amend some of the juvenile laws and harsh sentencing. I would like to be a voice for my son and I to hopefully have this amendment retroactive.
I am a residence of DC but my son Richard Bracey #04517-000 is currently incarcerated at USP Lee. He was convicted for murder when he was 17 years old back in 1994. He was given a sentence of 48 years to life, mandatory 35. He has now served 23 years. I wanted to tell you about him and the progress he has made since growing up in the federal system. He was a typical 17 year old who thought he knew everything and nobody couldn't tell him different. He wanted the fast life and fast money. He made some poor decisions, like most of us at that age, and suffered the consequences. Once he went to prison, his life changed. The first couple of years it was an adjustment. He figured he could be a part of the system or better himself for the future. He received his GED on the first time he took the test. He has taken many other classes throughout the years such as Personal Training, CDL, Parenting class, Psychology, and now he is going to start the HVAC Apprentice course at USP Lee.
My point of all this is as a juvenile, son didn't understand the concept of future goals and lifelong dreams. He was forced at an early age to grow up with other grown men in an environment that could have eaten him alive or turned him into a harder criminal. He chose to do the right thing. He is now 39 with long term goals and with the support of his mother , grandmother, brother and many other relatives, he has a chance at excellence and to be the upstanding citizen that the justice system is supposed to strive for after incarceration. Rehabilitation for him and many juveniles is what we want corrected. It only took him a few years to get himself together and become the great man he is today. He has served 23 years and I know he has benefited from this time.
In closing I ask that you make this amendment retroactive for all juvenile offenders who are serving these long sentences. Give them a chance to prove their maturity and accomplishments to a parole board sooner that's what the law says now. The offenders and the families of the offenders would greatly appreciate the opportunity.

Sincerely,
M. Boyce
From his Grandmother

SUPPLEMENTAL WRITTEN TESTIMONY STATEMENT
OF
ARTHUR L. BURNETT, SR.

RETIRED JUDGE, SUPERIOR COURT OF THE
DISTRICT OF COLUMBIA
PRESIDENT AND CHAIRMN OF THE BOARD OF DIRECTORRS
YOUTH COURT OF THE DISTRICT OF COLUMBIA

AND

DR. EDGAR S. CAHN, PH.D., J.D.
CO-FOUNDER ANTIOCH SCHOOL OF LAW
NOW
DAVID A. CLARKE SCHOOL OF LAW
UNIVERSITY OF THE DISTRICT OF COLUMBIA, INC.

BEFORE
THE COMMITTEE ON THE JUDICIARY
THE COUNCIL OF THE DISTRICT OF COLUMBIA

ON

BILL NO. 21-683
PROPOSED COMPREHENSIVE YOUTH JUSTICE AMENDMENT ACT OF 2016

In addition to submitting separate original written statements, we both sat through the entire hearing proceedings on Thursday, June 2, 2016 from the convening of the hearing until its adjournment and listened carefully to the testimony of each and every witness and the paid special attention to the substance of their comments. We jointly want to stress the important principle that public policy and law should be established in the public interest for the greater good of the most people and not based on the worst case scenario or the horrendous incident. Policy for 90 percent of our population should not be governed by the worst deeds of 10 percent and frequently less than that percentage. Too frequently "get tough on crime" and mandatory sentences, and the length and duration of sentences have been based on newspaper and media hype and exposing of "gut wrenching situations." We need to set policy and establish the law to serve the needs of the greater number of individuals and for the betterment of society as a whole.

5. Authorize the Department of Health and Human Services to issue Grants to Community-based organizations to provide for juvenile diversion programs, Family Mentoring, Temporary Guardianship (with a "guardianship Subsidy similar to the "Adoption Subsidy" in formal adoption cases) and utilizing retired probation or parole officers, social workers, members of the National African American Drug Policy Coalition, Inc. professional organizations, retired military, 100 Black Men of America, Concerned Black Men-National, and faith-based organizations to recruit, train and sponsor the Family Mentoring and Temporary Guardianship programs. With respect to "Temporary Guardianships" the authorization for such a program could permit senior citizens, though not related to the youth, to apply for such status with the necessary police criminal justice and child abuse clearances, and thus also reduce gentrification of the District of Columbia.

We want to end with more than this list because of what we believe to be the importance of the Youth Court of the District of Columbia – an institution previously celebrated as a national and international model. We believe it imperative to revive and sustain that institution in some appropriate form. From April 23, 1996 until 2015 (when lack of adequate funding forced the Youth Court to cease proceedings), the Youth Court function as a primary diversion program for well over 5,000 teenage District of Columbia offenders. Teen jurors sentenced their peers to community service, an apology, restitution, special education services – and jury duty.

Recidivism rates in Washington, D.C. plummeted by more than two-thirds. Reports vary but some documented a reduction to only 6% recidivism during the 90 days that the youth remained under Youth Court supervision. Others noted that even for the year following the appearance before the Youth Court that recidivism never rose above 11%. An independent performance review performed by Institute for Public Safety and Justice of the University of the District of Columbia found that recidivism was substantially higher and more serious for a control group that was not diverted to the Youth Court.

This is consistent with nationwide data and overall impact. According to a report provided by OJJDP (Office of Juvenile Justice and Delinquency Prevention) there are more than 1,150 teen/youth courts operating in 49 States and (formerly the District of Columbia). Global Youth Justice, an organization specializing in promoting Youth Courts in recent Internet data indicates that now in 2016 there are over 1600 such Youth Courts in existence and they are increasing monthly. While we cannot speak for all youth courts, we have direct and personal knowledge of the outcomes here in the District of Columbia.

Juries in the Youth Court of the District of Columbia came to be over 90% former offenders. Offenders not only performed thousands of hours of community service; they also came to create a new peer culture, one of civic responsibility and upward mobility. It represents no minor breakthrough for youth to be able to take pride in having helped peers and having provided them with a way to avoid a criminal record. It changed their value system and outlook on life and what could be possible for them. We believe it of the utmost importance for funding to be made available on a sustained and reliable way to maintain the Youth Court process. While we regard alternative diversion programs such as mediation

Hilgendorf, Shawn (Council)

To: Wade, Diamond (Council)
Subject: RE: B21-0683

Hello,

My name is Grant D. Moctar and I would like to begin by thanking council member Kenyan McDuffie and all the associated members who are taking part in introducing a Bill (B21-0683) to congress that will enact critical reform to the District of Columbia Juvenile Justice system.

I've been incarcerated for the past 23 years serving a mandatory sentence of 48 years to life for a criminal offence that occurred when I was 16 years old. Over the years, I was able to obtain G.E.D certification which allowed me to participate in various academic programs that included college courses. I was also fortunate enough to be mentored by older inmates who took classes on social learning and life skills. These opportunities that I was able to be a part of, had a significant impact in my life at a time when I was mentally maturing into adulthood. As a result, my institutional behavior improved through out the years and the lessons learned, stayed with me to help me make the mental transition from an adolescent boy who failed to appreciate the risk and consequences of his actions to a man eager to exercise his innate abilities associated with mental growth.

A bill to enact critical reform to the District of Columbia Juvenile Justice system is necessary especially when taking into account available scientific data, as well as, recent Supreme Court rulings showing how children are constitutionally different from adults as a result of their stage of mental development. The District of Columbia juvenile justice system also should implement legislation that would clearly, make the distinction between children being sentenced as adults from adults receiving adult sentences. In addition, I request, that it be considered, that the Bill be retroactive.

Thank you for your time and consideration.

Grant D. Moctar
05881-007

Robert Brown
611Harry S Truman Dr #101
Largo Md 20774
June 2, 2016

Councilmembers
The Committee on the Judiciary
1350 Pennsylvania Ave. NW
Washington, DC 20004

Re: Judiciary Public Hearing on B21-0683 "Comprehensive Youth Justice Amendment Act of 2016"

Dear Councilmembers:
I'm writing to you today because my brother and I just found out about this hearing to amend some of the juvenile laws and harsh sentencing. I would like to be a voice for my brother and hopefully have this amendment retroactive.
I am not a residence of DC but my brother Richard Bracey #04517-000 is currently incarcerated at USP Lee. He was convicted for murder when he was 17 years old back in 1994 the year I was born . He was given a sentence of 48 years to life, mandatory 35. He has now served 23 years. I wanted to tell you about him and the progress he has made since growing up in the federal system. He was a typical 17 year old who thought he knew everything and nobody couldn't tell him different. He wanted the fast life and fast money. He made some poor decisions, like most of us at that age, and suffered the consequences. Once he went to prison, his life changed. The first couple of years it was an adjustment. He figured he could be a part of the system or better himself for the future. He received his GED on the first time he took the test. He has taken many other classes throughout the years such as Personal Training, CDL, Parenting class, Psychology, and now he is going to start the HVAC Apprentice course at USP Lee.
My point of all this is as a juvenile, son didn't understand the concept of future goals and lifelong dreams. He was forced at an early age to grow up with other grown men in an environment that could have eaten him alive or turned him into a harder criminal. He chose to do the right thing. He is now 38 with long term goals and with the support of his mother , grandmother, brother and many other relatives, he has a chance at excellence and to be the upstanding citizen that the justice system is supposed to strive for after incarceration. Rehabilitation for him and many juveniles is what we want corrected. It only took him a few years to get himself together and become the great man he is today. He has served 23 years and I know he has benefited from this time.
In closing I ask that you make this amendment retroactive for all juvenile offenders who are serving these long sentences. Give them a chance to prove their maturity and accomplishments to a parole board sooner that's what the law says now. The offenders and the families of the offenders would greatly appreciate the opportunity.

Sincerely,
Robert Brown
From his Brother

Vernell Shipman
611- Harry S Truman Dr # 101
Largo MD 20774
June 1, 2016

Councilmembers
The Committee on the Judiciary
1350 Pennsylvania Ave. NW
Washington, DC 20004
Re: Judiciary Public Hearing on B21-0683
"Comprehensive Youth Justice Amendment Act of 2016"

Dear Councilmembers:

My name is Vernell Shipman I'm writing to you today because my son and I just found out about this hearing to amend some of the juvenile laws and harsh sentencing. I would like to be a voice for my son and I to hopefully have this amendment retroactive.

I am not a residence of DC but my son Richard Bracey #04517-000 is currently incarcerated at USP Lee. He was convicted for murder when he was 17 years old back in 1994. He was given a sentence of 48 years to life, mandatory 35. He has now served 23 years. I wanted to tell you about him and the progress he has made since growing up in the federal system. He was a typical 17 year old who thought he knew everything and nobody couldn't tell him different. He wanted the fast life and fast money. He made some poor decisions, like most of us at that age, and suffered the consequences. Once he went to prison, his life changed. The first couple of years it was an adjustment. He figured he could be a part of the system or better himself for the future. He received his GED on the first time he took the test. He has taken many other classes throughout the years such as Personal Training, CDL, Parenting class,

Psychology, and now he is going to start the HVAC Apprentice course at USP Lee.

My point of all this is as a juvenile, son didn't understand the concept of future goals and lifelong dreams. He was forced at an early age to grow up with other grown men in an environment that could have eaten him alive or turned him into a harder criminal. He chose to do the right thing. He is now 39 with long term goals and with the support of his mother , future wife, and his step-son, his, grandmother, brother and many other relatives, he has a chance at excellence and to be the upstanding citizen that the justice system is supposed to strive for after incarceration. Rehabilitation for him and many juveniles is what we want corrected. It only took him a few years to get himself together and become the great man he is today. He has served 23 years and I know he has benefited from this time.

In closing I ask that you make this amendment retroactive for all juvenile offenders who are serving these long sentences. Give them a chance to prove their maturity and accomplishments to a parole board sooner that's what the law says now. The offenders and the families of the offenders would greatly appreciate the opportunity.

Sincerely,

V. Shipman

From his loving mother and brother

TO:D.C. COUNCIL MEMBER KENYAN R. McDUFFIE

I AM A BORN AND RAISED D.C. RESIDENT WHO WAS CHARGED AND SENTENCE AS AN ADULT IN THE SUPERIOR COURT.I BEEN LOCKED UP FOR THE LAST 26YRS FOR MY FIRST CONVICTION EVER IN MY LIFE.I JUST BECAME AWARE OF THE "COMPREHENSIVE YOUTH JUSTICE AMENDMENT ACT BILL 21-0683." I SHOULD NOT HAVE BEEN SENTENCED AS AN ADULT,BECAUSE I WAS A "CHILD".WHENEVER A JUVENILE IS SENTENCED AS AN ADULT,THE JUVENILE IS BEING PUNISHED "WORSER" THEN THE ADULT THAT THE LAW WAS SPECIFICALLY DESIGNED TO PUNISH.BECAUSE THE JUVENILE/CHILD IS GOING TO WIND UP DOING MORE TIME THEN THE ADULT BECAUSE OF OUR "YOUTH".THAT IS "CRUEL AND UNUSUAL PUNISHMENT" TO GIVE A "CHILD" AN ADULT SENTENCE AND PUNISH THE JUVENILE/CHILD WORSER THEN THEY DO THE ADULT.THE 8TH AMENDMENT OF THE "CONSTITUTION" GUARANTEED THAT ALL JUVENILES WHO COMMITED ADULT OFFENSES WOULD NOT BE HELD EQUALLY AS CULPABLE AS ADULTS,WITHOUT THE COURT FIRST TAKING INTO MITIGATION THE FACTORS OF YOUTH.IN D.C. OUR YOUTH WAS "NOT" TAKING INTO CONSIDERATION WHEN WE WERE SENTENCED.THE COURTS AND PROSECUTERS ARE NOT TAKING OUR YOUTH INTO ACCOUNT WHEN THEY SENTENCE US JUVENILES,BECAUSE THEY ARE SENTENCING US TO 60,70,90 AND 100yrs to life.IF THOSE ARE NOT "LIFE SENTENCING" WITHOUT THE LABEL,THEN WHAT ARE THEY?SO HOW CAN OUR YOUTH BE TAKEN INTO ACCOUNT WHEN WE ARE SENTENCED LIKE THAT?I WAS GIVEN "64YRS TO LIFE" FOR MY FIRST CONVICTION EVER IN MY LIFE,WITHOUT EVER GIVEN A SECOND CHANCE.I WAS AN "IMMATURE CHILD" WHOSE "BRAIN WAS NOT FULLY DEVELOPED" WHEN I GOT LOCKED UP MAY 10,1990.A JUVENILES BRAIN IS TOTALLY DIFFERENT THAN AN ADULT BRAIN,AND A JUVENILE CANNOT BE HELD EQUALLY AS CULPABLE AS AN ADULT,BECAUSE AN ADULT IS ON A DIFFERENT LEVEL THAN A JUVENILE/CHILD.A JUVENILE SHOULD NOT BE SENTENCED AS AN ADULT AT ALL.BUT,IF THEY ARE GOING TO

SENTENCE US AS AN ADULT,THEN THEY HAVE TO PUT A **"CAP"** ON IT. THAT A JUVENILE CANNOT BE SENTENCED AS AN ADULT NO MORE THAN **"20yrs"**.THAT WAY JUVENILES WILL HAVE A MEANINGFUL OPPORTUNITY TO RE-ENTER SOCIETY AS A "MATURE" ADULT FOR THE FIRST TIME IN OUR LIVES AND BE A "PRODUCTIVE CITIZEN".BECAUSE YOU CAN"T EXPECT A PERSON IN THEIR LATE 30's OR EARLY 40's TO BE THE SAME PERSON THAT THEY WERE AT AGE 16 or 17.I AM A "TOTALLY DIFFERENT PERSON" THEN I WAS WHEN I GOT LOCKED UP 26YRS AGO.I SHOULD BE GIVEN A "SECOND CHANCE" AND A OPPORTUNITY TO LIVE MY LIFE "FREE" FOR THE FIRST TIME IN MY LIFE AND NOT BE PUNISHED FOR THE REST OF MY LIFE FOR A MISTAKE I MADE AS A "CHILD".THEY SAY THIS IS THE LAND OF "SECOND CHANCES",THEN WHY NOT GIVE PEOPLE WHO "NEVER" GOT THE CHANCE OR OPPORTUNITY TO LIVE OUR LIFE FREE AS A "MATURE ADULT" FOR THE FIRST TIME IN OUR LIFE?THIS BILL 21-0683 SHOULD BE PASSED AND MADE "RETROACTIVE" AND ANY OTHER ADDITIONAL LAWS THAT NEED TO BE PASSED TO GIVE JUVENILES THAT WAS SENTENCE AS ADULTS A SECOND CHANCE.CHARGING AND SENTENCING JUVENILES/CHILDREN THE"SAME WAY" YOU WILL AN ADULT WHO IS SIMILARLY SITUATED,VIOLATED MY 8TH AMENDMENT CONSTITUTIONAL RIGHTS,CIVIL RIGHTS AND HUMAN RIGHTS AS A JUVENILE/CHILD IN AMERICA.THE **"CONSTITUTION"** GUARANTEED THAT **"I" A "JUVENILE CANNOT BE HELD "EQUALLY" AS CULPABLE AS AN ADULT, WITHOUT FIRST TAKEN MY YOUTH INTO MITIGATION"**.WHEN I WAS SENTENCED IN 1992 TO **"64yrs to life"** I WAS HELD "EQUALLY" AS CULPABLE AS AN ADULT,BECAUSE I WAS GIVEN THE "SAME SENTENCE" THAT AN ADULT WOULD RECEIVE WHO WAS SIMILARLY SITUATED.WHICH VIOLATED MY "CONSTITUTIONAL" RIGHTS.AN AMENDMENT,STATUTE,CODE OR LAW "IS NOT" BIGGER THAN OR OVERRIDE THE **"UNITED STATES CONSTITUTION"**.THE **"CONSTITUTION"** IS "BIGGER AND SUPERSEDE" ALL OF THOSE THINGS,AND IS TO BE "FOLLOWED" WHEN MAKING AND PASSING LAWS.WHEN YOU DON"T FOLLOW THE "CONSTITUTION" THEN YOU ARE IN VIOLATION OF IT.WHAT MAKES THIS "SO BAD AND WRONG"

IS THAT WHEN YOU SENTENCE AND TREAT A "CHILD" THE "SAME WAY" YOU WILL AN ADULT WHO IS ON A TOTALLY DIFFERENT LEVEL THAN A JUVENILE/CHILD AND"TAKE AWAY" THEIR "CONSTITUTIONAL RIGHTS AS A CHILD IN AMERICA" THAT WAS GUARANTEED TO US WHEN THE UNITED STATES CONSTITUTION WAS WRITTEN.THEY ARE IN COMPLETE VIOLATION,AND TO DO IT TO A JUVENILE/CHILD MAKES IT EVEN WORSER.THAT"S WHY I AM IN FAVOR OF **"BILL 21-0683"** AND ANY ADDITIONAL BILLSOR LAWS THAT NEEDS TO BE PASSED IN D.C. TO FIX THE WRONGS THAT WAS DONE TO JUVENILE/CHILDREN WHO WAS SENTENCED AS ADULTS AND GIVE US A **"SECOND CHANCE"** TO LIVE OUR LIFE "FREE" AS A "MATURE ADULT".MY COMPLETED "26yrs" SHOULD BE ENOUGH FOR A JUVENILE THAT WAS SENTENCED AS AN ADULT IN D.C..WE LIVE IN THE UNITED STATES **"NATIONS CAPITAL"** AND YOU ALONG WITH YOUR OTHER D.C. COUNCIL MEMBERS AND LEGISLATORS CAN SHOW THE REST OF THE UNITED STATES HOW THE CONSTITUTION SUPPOSED TO BE FOLLOWED AND FIX THE WRONGS THAT WAS DONE AGAINST JUVENILES SENTENCED AS ADULTS AND PASS LAWS IN D.C. THAT MAKE ALL JUDGES AND PROSECUTERS IN D.C FOLLOW THE "CONSTITUTION" AND RESENTENCE ALL JUVENILES IN D.C. THAT WAS SENTENCED THE "SAME WAY" AN ADULT WHO IS SIMILARLY SITUATED AND GIVE US A "MEANINGFUL OPPORTUNITY" TO RE-ENTER SOCIETY AS A "MATURE ADULT"AND NOT WHEN WE ARE IN OUR "50'S OR 60'S".BECAUSE HOW CAN US JUVENILES HAVE A "MEANINGFUL OPPORTUNITY" IN SOCIETY FOR THE FIRST TIME IN OUR LIFE AS AN ADULT AFTER BEING IN INCARCERATED FOR 30 or 40yrs AND BE ABLE TO FIND A JOB AND BE "PRODUCTIVE" IN SOCIETY IN OUR 50'S AND 60'S? WHAT YOU AND YOUR OTHER D.C. COUNCIL MEMBERS ARE DOING IS RIGHT,BECAUSE Y"ALL ARE FOLLOWING THE "CONSTITUTION".YOU CAN"T GO WRONG WHEN YOU FOLLOW THE "CONSTITUTION.SO NO MATTER WHAT "ANYBODY" SAY ABOUT WHAT Y"ALL ARE DOING IN D.C.,Y"ALL HAVE THE "CONSTITUTION" TO BACK Y"ALL UP.WHATEVER LAW"S Y"ALL PASS IN D.C. SHOULD BE "RETROACTIVE" AND "APPLY TO ALL".THANK YOU FOR YOUR TIME.

BRIAN WILLIAMS#11842-007
U.S.P. McCREARY
P.O. BOX 3000
PINE KNOT,KY. 42635

Written Statement of Julie Stewart
President, Families Against Mandatory Minimums

Submitted to the record for the D.C. Council Hearing on Bill 21-683
June 2, 2016

I thank the Council for its consideration of Bill 21-683, the Comprehensive Youth Justice Amendment Act of 2016, and commend the introduction of this thoughtful and important piece of legislation. Thank you for the opportunity to submit a written statement regarding the bill. I will focus my comments on one particular section of the bill: Section 303, regarding the discretionary suspension by judges of mandatory minimum sentences when the person was a juvenile at the time of the commission of the offense.

I founded Families Against Mandatory Minimums (FAMM), a nonpartisan, nonprofit sentencing reform advocacy group here in Washington, DC, in 1991. At that time, I learned that my brother, Jeff, had foolishly decided to grow marijuana in his garage in Washington State. I thought he might serve a year or two in prison – after all, he was a first-time offender, did not possess a gun or use violence, and, I thought, "it was only marijuana." Jeff's federal judge also thought a couple of years in prison would be the wake-up call Jeff needed, but told us that his opinion did not matter: a five-year mandatory minimum sentence applied, and that was the sentence he must impose. I was astonished that Congress, who had never laid eyes on my brother, sentenced him – not his judge, who knew every detail of his case. I founded FAMM because I believe that the public is safer when sentences fit the crime and the individual, and our criminal justice system is fairer and more transparent when judges, not lawmakers, are allowed to consider all relevant factors before deciding the proper punishment in each and every case.

FAMM supports the full repeal of all mandatory minimum sentences – no matter the crime, no matter the offender. Short of repeal, we support granting judges broad sentencing discretion through "safety valve" exceptions to mandatory minimum sentences. Safety valves give courts flexibility to recognize and prevent unusual, unforeseen, or wildly unjust outcomes produced by mandatory minimum sentences. Offenders are still punished and usually still go to prison, but sentences are proportionate, and lengthy and expensive prison stays are reserved for the most dangerous and deserving offenders. Since 1994, we have found that safety valve reforms to mandatory minimum sentencing laws increase effectiveness and fairness in sentencing.

In 1994, FAMM worked with members of Congress to add a federal safety valve[1] to the Violent Crime Control and Law Enforcement Act, which was ultimately signed into law by President Bill Clinton.[2] The safety valve applies only to federal drug offenders, and only if they meet all parts of a strict, five-part test: they must have little or no criminal history, must plead guilty, must not have possessed a weapon, must not have played a leadership role in the offense, and the offense must not have resulted in death or serious bodily injury to others. If this test is met, federal judges may sentence the person to a term other than the statutory minimum – for example, eight years in prison rather than 10, or three years in prison rather than five. If it had

[1] 18 U.S.C. § 3553(f) (2016).
[2] Pub. L. 103-322, title VIII, § 80001(a), Sept. 13, 1994.

existed at the time of my brother's sentencing, Jeff's judge would have been able to give him two years in prison rather than five. Since 1994, the federal drug safety valve has permitted more proportionate sentences in over 90,000 federal drug cases and has likely saved taxpayers more than one billion dollars in unnecessary corrections costs.

Over 25 years of advocacy, FAMM has also found safety valves to be an effective, bipartisan reform measure in state legislatures across the country. FAMM is a member organization of the American Legislative Exchange Council (ALEC) and has jointly written model safety valve language[3] that has been shared with lawmakers of both parties in red and blue states. FAMM has helped state legislatures enact safety valve reforms in New Jersey, Georgia, and Maryland,[4] and reduce or repeal mandatory minimum sentences in Iowa, Florida, Michigan, Massachusetts, South Carolina, Oklahoma, and, just last month, our neighbor, Maryland.[5]

In the last 15 years, more than 30 states have reformed or repealed their mandatory minimum sentences, reducing correction costs and prison populations and saving taxpayers money.[6] More importantly, crime has also dropped in states that have been cutting their prison populations through wiser sentencing choices.[7] Experiences in the states debunk the myth that mandatory minimum sentences are necessary to reduce crime.

While many of the sentencing reform efforts at the state and federal level are focused on nonviolent or low-level drug offenses, it is important that states reconsider their mandatory minimum sentences wholesale, including for violent offenses. Florida is a good example. Earlier this year, we assisted Florida lawmakers in repealing their notorious "10-20-Life" mandatory minimum sentence for aggravated assault with a firearm.[8] The well-intentioned law had forced courts to send people who fired "warning shots" in defense of themselves or others to prison for 20 years,[9] regardless of the facts of the case or the circumstances of the offender. Florida rightly recognized that cases involving guns can be complicated, do not always result in physical injury or death, and require an individualized approach at sentencing.

Other states have safety valves for mandatory minimum sentences for offenses involving guns and violence. Among other provisions, Minnesota has a safety valve for its mandatory minimum sentences for second degree assault, possession of a dangerous weapon or firearm during a crime

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[3] American Legislative Exchange Council, Justice Safety Valve Act, http://famm.org/wp-content/uploads/2013/07/ALEC-Justice-Safety-Valve-Act-8-5-13.pdf.

[4] *See generally* Families Against Mandatory Minimums, Turning Off the Spigot: How Sentencing Safety Valves Can Help States Protect Public Safety and Save Money (Mar. 2013) (describing safety valve reforms in the states), http://famm.org/Repository/Files/Turning%20Off%20the%20Spigot%20web%20final.pdf.

[5] Families Against Mandatory Minimums, Recent State-Level Reforms to Mandatory Minimum Laws (June 1, 2016), http://famm.org/wp-content/uploads/2013/08/Recent-State-Reforms-June-2016.pdf.

[6] Vera Institute of Justice, Playbook for Change?: States Reconsider Mandatory Sentences 8, 12, App. B (Feb. 2014), http://www.vera.org/sites/default/files/resources/downloads/mandatory-sentences-policy-report-v2b.pdf.

[7] *See* Pew Center on the States, Public Safety Performance Project, Most States Cut Imprisonment and Crime, Nov. 10, 2014, http://www.pewtrusts.org/en/multimedia/data-visualizations/2014/imprisonment-and-crime.

[8] CS/SB 228, Feb. 24, 2016, https://www.flsenate.gov/Session/Bill/2016/0228.

[9] *See, e.g.,* Families Against Mandatory Minimums, Erik Weyant, http://famm.org/erik-weyant/ (describing how a 23 year-old veteran fired his legally-owned pistol in self-defense, injuring no one, yet was convicted of aggravated assault with a firearm and received a 20-year mandatory minimum sentence for the crime).

of violence, or being a prohibited person in possession of a firearm.[10] In 2015, the Minnesota safety valve was used in 39 percent of the 715 firearm-related cases that carried mandatory minimum sentences.[11] Explaining the safety valve for second degree assault, the state's sentencing commission noted that

> [t]he second-degree assault statute proscribes a broad range of misbehavior: Injury to the victim may or may not occur, and the type of dangerous weapon involved can vary widely, from a pool cue to a knife to a firearm. Circumstances surrounding the offense can also vary significantly, from barroom brawls to unprovoked confrontations. The mandatory minimum statute specifically permits the court to sentence without regard to the mandatory minimum, provided that substantial and compelling reasons are present (Minn. Stat. § 609.11, subd. 8). It is perhaps unsurprising to find many departures in the sentencing of a crime that can be committed in many different ways.[12]

Montana has a noteworthy safety valve that is particularly relevant to consideration of Bill 21-683. Montana's broad safety valve applies to virtually all of the mandatory minimum sentences for violent offenses, including murder, rape, kidnaping, sexual abuse, and armed robbery.[13] The safety valve states that mandatory minimum sentences "do not apply" if "the offender was less than 18 years of age at the time of the commission of the offense for which the offender is to be sentenced."[14] Montana arguably goes even further than Bill 21-683 would in limiting mandatory minimum sentences to those who committed their crimes as adults – in Montana, the mandatory minimum does not apply at all, but under Bill 21-683, the court "*may* issue a sentence less than the minimum term otherwise required by law" (emphasis added) if the crime was committed as a juvenile.

While FAMM would prefer that the District of Columbia repeal its mandatory minimum sentences, we also wholeheartedly support the safety valve included in Bill 21-683. It is a modest but important reform to the District of Columbia's mandatory minimum sentences.[15] It would allow, but not require, judges to sentence below the mandatory minimum term if a youthful offender's case merits it. It does not repeal the mandatory minimum sentencing laws or limit prosecutors' ability to use them. The provision does not mean that no one will be punished or that no one will go to prison. It simply means that courts will decide, in an open and transparent process in a public courtroom, whether an offender's youth merits a different sentencing outcome in each particular case.

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[10] Minn. Stat. § 609.11, subd. 8 (2016).

[11] MINNESOTA SENTENCING COMM'N, REPORT TO THE LEGISLATURE 41 (Jan. 15, 2016), http://mn.gov/sentencing-guidelines/assets/MN%20Sentencing%20Guidelines%20Comm%202016%20Report%20to%20the%20Legislature1_tcm30-114326.pdf.

[12] *Id.* at 33.

[13] MCA § 46-18-222 (2016).

[14] MCA § 46-18-222(1).

[15] *See* THE DISTRICT OF COLUMBIA SENTENCING AND CRIMINAL CODE REVISION COMMISSION, VOLUNTARY SENTENCING GUIDELINES MANUAL 24-25 (June 29, 2015) (listing offenses carrying mandatory minimum penalties), http://scdc.dc.gov/sites/default/files/dc/sites/scdc/publication/attachments/2015_Voluntary_Sentencing_Guidelines_Manual.pdf.

Much has been written elsewhere – and accepted by the U.S. Supreme Court[16] – regarding the growing body of science and psychology that confirms what any parent knows: juveniles are different from adults and should be treated differently in our court systems. Brain science tells us that juveniles are still literally "in process" – physically, emotionally, and psychologically – and are less capable of making rational decisions in many areas of life, including choice of associates or when and whether to engage in bad or reckless behavior.[17] Juvenile offenders lack impulse control, which is not fully developed until age 25, and the ability to weigh negative and positive consequences accurately.[18]

Most importantly, juveniles are simply young and have their whole lives ahead of them. It is not only mandatory life without parole sentences that kill meaningful opportunities for a young offender to grow, change, and rehabilitate. In some cases, a five-year, 10-year, or 20-year mandatory minimum sentence may be just as much of a death knell. For some younger and more vulnerable offenders, even a short time in prison can have a traumatizing and criminogenic impact, due to the greater risk of physical injury or the poor influence of older prisoners with deeper experience in crime.[19]

Even in the most serious cases, such as where defendants use lethal violence, the differences between juveniles and adults matter and should be considered at sentencing. Judges should be permitted to distinguish between the 17 year-old who drove the car to a shoot-out and the older siblings, gang leaders, or former classmates who organized the crime, pressured him to help, or actually pulled the trigger. Courts should have the discretion to recognize that less punishment may ultimately be better for a teenager who made a terrible mistake in the heat of a moment but could still have a bright future ahead of him. And courts should have the power to use less prison time if it looks likely to be, in actuality, a longer, tougher sentence for a younger, more vulnerable defendant.

The judges on the bench in the District of Columbia are highly educated, highly experienced, and highly capable of setting correct punishments even in serious offenses that involved juveniles. Most of the crimes that carry mandatory minimum sentences in the District of Columbia are serious and damaging to victims and communities. But not all of these crimes are the same, not all of the offenders who commit them are identical, and the judge is in the best position to know when a young person is sufficiently less culpable, less dangerous, or more likely to rehabilitate to merit a sentence other than the mandatory minimum term. Obviously, we are less safe when we impose sentences that are too short. The same is true when we use sentences that are too long – it

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[16] *Miller v. Alabama*, 567 U.S. __ (2012); *Graham v. Florida*, 560 U.S. 48 (2010); *Roper v. Simmons*, 543 U.S. 551 (2005).

[17] Kendall Powell, "Neurodevelopment: How Does the Teenage Brain Work?," Nature 442 (24 August 2006): 865-867, http://www.nature.com/nature/journal/v442/n7105/pdf/442865a.pdf.

[18] Debra Bradley Ruder, "The Teen Brain," Harvard Magazine (September – October 2008): 8-10, http://harvardmag.com/pdf/2008/09-pdfs/0908-8.pdf.

[19] *See, e.g.*, Jessica Lahey, "The Steep Costs of Keeping Juveniles in Adult Prisons," The Atlantic (Jan. 8, 2016), http://www.theatlantic.com/education/archive/2016/01/the-cost-of-keeping-juveniles-in-adult-prisons/423201/ (describing research showing that young offenders are at greater risk of sexual assault and 36 times more likely to commit suicide); Hans Steiner, Ivan Garcia, and Zakee Matthews, "Posttraumatic Stress Disorder in Incarcerated Juvenile Delinquents," Journal of the American Academy of Child and Adolescent Psychiatry 36, 3 (March 1997): 357-365, http://www.jaacap.com/article/S0890-8567(09)66439-X/pdf.

is unjust, it erodes community confidence in the justice system, and it increases crime by consuming precious taxpayer resources that could be better spent on policing, prosecuting, or incarcerating more dangerous offenders.

For these reasons, I hope the Council will adopt Bill 21-683 as soon as possible. FAMM appreciates the opportunity to submit this testimony and is happy to answer any questions the Councilmembers may have as they study and vote on this important legislation.

Thank you for considering our views.

June 16, 2016

Chairperson Kenyan McDuffie
Committee on the Judiciary
Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, D.C. 20004

Committee on the Judiciary Hearing on B21-0683 the Comprehensive Youth Justice Amendment Act of 2016

Written Testimony of Kaitlyn Boecker, Policy Coordinator, Drug Policy Alliance

The Drug Policy Alliance (DPA) appreciates the opportunity to submit written testimony to the Committee regarding B21-0683 the Comprehensive Youth Justice Amendment Act of 2016. DPA advocates for drug policies that are grounded in science, compassion, health and human rights, with a core mission to reduce the harms associated with drug use and drug prohibition. DPA supports the legislation under consideration by the Committee.

This bill would make much needed changes to the juvenile justice system, including disallowing juveniles to be placed in the adult system, implementing more age-appropriate sentencing, and limiting the use of solitary confinement.

There is extensive research on the effects of waiving juveniles into the adult criminal justice system and housing juveniles with adults. The findings are overwhelmingly negative. Youth housed in adult facilities are more likely to face violence and sexual victimization, as well as suffer from the lack of youth specific programs.[i] To address these issues, the Comprehensive Youth Justice Amendment Act will no longer allow juveniles to be sent to adult facilities and will transfer all detained youth under 18 who are currently in adult facilities to juvenile centers by 2018.

Just as housing juveniles in adult facilities has proven to have profound negative effects, housing young children with older adolescents in juvenile facilities has similar repercussions. The Comprehensive Youth Justice Amendment Act protects children under the age of 10 from being committed with older juveniles and entering the criminal justice system.

The unique needs of juveniles involved in the criminal justice system are incredibly important and must be specifically addressed within any justice reform. We must take into account that behavior during adolescence is a poor predictor of future behavior, because the juvenile brain is not fully developed.[ii] Certain parts of the brain, particularly the region that governs long-term planning and impulse control, are not fully developed until adulthood,[iii] making teens more

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prone to erratic behavior than adults.[iv] Such factors not only support the decision to disallow juvenile placement within adult facilities, but also validate the need for age to be considered as a critically important factor during sentencing. B21-0683 ensures that juvenile status will be considered during sentencing by eliminating the use of mandatory minimum sentences for juveniles, restoring judicial discretion, banning the use of life without parole for juveniles, and establishing victim-offender mediation programs as an alternative to detention.

Furthermore, this legislation addresses the pressing issue of youth solitary confinement by greatly limiting circumstances in which it can be used and requiring stringent reporting. Confining juveniles has profound impacts on social, psychological and physical development. Young people held in solitary confinement report thoughts of suicide and self-harm, hallucinations, an increase in depression and anxiety, shifting sleep patterns, and nightmares.[v] While complete elimination of solitary confinement should be our ultimate goal, B21-0683's restrictions on the practice are a positive step.

The reforms outlined in this legislation are a step towards a more equitable juvenile justice system in the District of Columbia. In addition to the important reforms contained in this legislation, the committee should explore further reform and initiate a far-reaching dialogue on systemic issues within the juvenile justice system.

The District must carefully examine the effects any juvenile detention has on families. When a juvenile is incarcerated, familial relationships are damaged and the stigma of incarceration affects not only the juvenile, but the entire family and community. Women bear the majority of the costs, financially and emotionally, when a youth in their family is detained. This impact is significantly greater on women of color, as more youth of color are detained, which only serves to deepen societal divides and racial disparities in the District.[vi]

Policymakers must also examine the consequences that criminalizing certain behaviors, including drug use, has on youth. The criminalization of youth drug use often creates barriers to education, while exacerbating racial disparities in outcomes. Enforcement of drug-related violations is significantly racially biased. White youth sell and use drugs at the same (or higher rates) as youth of color, yet black and Latino youth are arrested, prosecuted and imprisoned at much higher rates for drug crimes.[vii]

We should explore alternatives to criminalizing the behavior of youth. For example, decriminalizing marijuana possession for all ages has largely been a success.[viii] Most importantly, decriminalizing marijuana has not lead to an increase in risk behavior for youth.[ix] Although there are health consequences of youth marijuana use, the most dangerous consequence, with the most far-reaching impacts, is a criminal record. We must explore alternatives that reduce the harms caused by the criminalization of youth behaviors.

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Thank you again for the opportunity to submit written testimony, we look forward to working with you on this legislation, which is a positive step forward for criminal justice reform in the District.

Sincerely,

Kaitlyn Boecker
Policy Coordinator, Office of National Affairs
Drug Policy Alliance

[i] Campaign for Youth Justice (2014) 'Capital City Corrections: Reforming DC's Use of Adult Incarceration Against Youth,' P. 14. http://www.campaignforyouthjustice.org/images/pdf/Capital_City_Correction.pdf

[ii] Barry Feld (2007) 'Unmitigated Punishment: Adolescent criminal responsibility and the LWOP sentences', *Journal of Law & Family Studies*, P. 52. http://heinonline.org.proxyau.wrlc.org/HOL/Page?handle=hein.journals/jlfst10&collection=journals&id=58

[iii] Campaign for Youth Justice, 'Teen Brains Are Not Fully Developed'. http://www.campaignforyouthjustice.org/documents/Teen_Brains_Are_Not_Fully_Developed.pdf

[iv] Mary Beckman (2004) 'Crime, Culpability, and the Adolescent Brain', *Science,* P. 599.

[v] Human Rights Watch (2012) 'Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons across the United States', P. 24. https://www.aclu.org/sites/default/files/field_document/us1012webwcover.pdf

[vi] Ella Baker Center for Human Rights (2015) 'Who Pays? The True Cost of Incarceration on Families' P. 9. http://whopaysreport.org/executive-summary/pdf-executive-summary/

[vii] The Sentencing Project (2016) 'Racial Disparities in Youth Commitments and Arrests' P. 7. http://www.sentencingproject.org/publications/racial-disparities-in-youth-commitments-and-arrests/

[viii] Center on Juvenile and Criminal Justice (2014) 'Reforming Marijuana Laws: Which Approach Best Reduces the Harms of Criminalization? A Five-State Analysis' P. 2. http://www.cjcj.org/uploads/cjcj/documents/cjcj_marijuana_reform_comparison.pdf

[ix] Center on Juvenile and Criminal Justice (2014) 'Reforming Marijuana Laws: Which Approach Best Reduces the Harms of Criminalization? A Five-State Analysis' P. 6. http://www.cjcj.org/uploads/cjcj/documents/cjcj_marijuana_reform_comparison.pdf

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TESTIMONY SUBMITTED TO THE
Committee on the Judiciary
Council Member Kenyan McDuffie, Chair
By
Shayna Scholnick, Director of the Promotor Pathway, Latin American Youth Center

Judiciary Public Hearing on Bill 21-0683,
the Comprehensive Youth Justice Amendment Act of 2016

June 2, 2016

Dear Chairman McDuffie, Councilmembers, and Members of the Judiciary Committee:

My name is Shayna Scholnick, Director of the Promotor Pathway Program at the Latin American Youth Center. On behalf of LAYC, I strongly endorse the Comprehensive Youth Justice Amendment Act of 2016 and urge the Council to support this bill as it moves through the legislative process. The bill provides significant reforms to the District of Columbia's juvenile justice system critical for the successful rehabilitation of youth within the District of Columbia.

LAYC's mission is to empower a diverse population of youth to achieve a successful transition into adulthood through multi-cultural, comprehensive, and innovative programs that address youths' social, academic, and career needs. As experts in Positive Youth Development, we know that a juvenile justice system that prioritizes rehabilitation and restorative justice over harsh confinement and incarceration has the potential to result in stronger long-term outcomes for our most vulnerable youth: low-income youth, youth of color, immigrant youth, and the District's disconnected youth.

LAYC's staff has witnessed firsthand the negative effects and long-term consequences of youth placed in harsh secure detention or exposed to inhumane confinement practices on their physical, emotional, mental, and developmental well-being. Our youth have described instances of re-traumatization, re-victimization, and violence at the hands of the juvenile justice system. Due to a number of risk factors, some of our youth who fall under the category of truant or run-away youth end-up placed in secure detention and face harsh conditions that are not appropriate for their age or their history of trauma and violence. We've seen the impact that these practices have on our youth and their communities. These harsh practices do more harm than good to the youth, and seemingly have no impact on deterring repeat offenses. This Bill ensures that detained youth are treated with dignity, housed appropriately, given the

opportunity to participate in restorative justice, and protects already vulnerable immigrant youth victims of abuse and neglect from further victimization.

LAYC believes young people can successfully reintegrate into their communities after contact with the juvenile justice system. To do so requires youth to have dedicated access to resources and community-based programs that offer age-appropriate, as well as linguistically and culturally appropriate comprehensive care. Programs like the Promotor Pathway at LAYC offers youth ages 14 – 24 a long-term committed case manager, advocate, and mentor to help them navigate their transition into adulthood and make the social and community connections necessary to achieve their goals and reduce the likelihood to reoffend. Such positive adult-youth relationships ensure that youth vulnerable to victimization, re-traumatization, or repeat contact with the juvenile justice system are offered access to effective social services, housing, behavior healthcare, and violence-prevention resources.

LAYC's population of youth served is approximately 60% Latino and 40% African-American or Black. Many of those youth are immigrants from Central American and African countries, often youth fleeing violence, poverty, and trauma in their home countries. LAYC strongly supports the protections the bill extends to immigrant youth by allowing youth until the age of 21 who have been abandoned, abused or neglected by their parents to be protected from further harm by being placed in the custody of a supportive adult and seeking Special Immigrant Juvenile Status (SIJS). A number of the youth accessing LAYC's programs can be identified as 'unaccompanied minors' because they have recently arrived just before their 18th birthday. Others are facing the same challenging conditions and circumstances as those minors, despite having arrived at age 19 or 20. These are youth who have been abused and neglected in their home countries, living on their own or homeless since arriving, and in urgent need of protection and supportive resources. The District's immigrant youth deserve access to immigration relief offered by SIJS.

In our experience through the Promotor Pathway, we know if can take years for youth who have experienced trauma to disclose that kind of abuse and neglect to a trusting adult who will be looking out for their best interest. Our model is indicative of the power and benefit of having a reliable, on-going appointed guardian even after the age of 18 to support a young person's well-being and continued development. While our Promotores do not serve as legal guardians, they offer a similar support role in mentoring, providing resources, and serving as a positive and caring adult role model for young people as they continue to mature. However, despite the demonstrated benefits of this long-term adult-youth relationship, our Promotores cannot grant immigrant youth the benefits and protections offered by SIJS. Many of these young people who are recently arrived in our country are over age 18, but also alone and without trusting family connections. These young people need not only positive support as they transition into

adulthood, but also the immediate access to basic resources (such as housing, education, health care), safety protections (because as vulnerable, undocumented youth they are targets for recruitment into gang violence or sexual exploitation), and guidance to navigate entirely new systems and communities, often with limited or no English language skills. Access to SIJS for the District's young people between the ages of 18-21 will serve in the best interest of our youth population, to ensure they successfully receive the protections they need, and the supportive resources from the community to grow into contributing members of the District of Columbia.

LAYC strongly endorses the Bill and all of the positive reform it proposes for the District's juvenile justice system and expanded protections to the District's recently arrived young immigrant population. Again, we urge the Council to support this bill and ensure its successful passage. This bill will have significant positive impact on the lives and well-being of countless youth in the District of Columbia and the communities in which they reside.

Thank you for your time.

June 12, 2016

Diamond Wade, Legislative Assistant
Councilmember Kenyan R. McDuffie
The John A. Wilson Building
1350 Pennsylvania Avenue NW, Suite 506
Washington, DC 20004

Dear Ms. Wade,

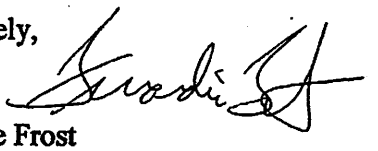
I am writing in reference to Bill B21-0683 the "Comprehensive Youth Justice Amendment Act of 2016." The public hearing for this bill was held on June 2, 2016 which is about juveniles being sentence as adults. I am writing this letter on behalf of my nephew who is currently incarcerated at Earl Knott #02667-007, Federal Correctional Institution, PO Box 1000, Petersburg, VA 23804. Earl was sentenced under the DC Goodtime Credit Act and has been in prison over 20 years.

Here's Earl's information that is pertinent to his case:

Earl Knott #02667-007 (FBOP) and #0267-822 (DC DC)
Case #F5687-95 B, E
Conviction – 22 DCC 3502 Sodomy on a minor (ct B, E)
Sentence – 13 years, 4 months to 40 years

When this Bill does pass as law, please consider this case as priority so we can bring my nephew home because he has been incarcerated since he was a youth. This Bill gives a second chance to most people who were under the age of 18 at the time of their crime, tried as an adult and sentenced to an adult prison sentence. This bill also establishes a parole process with different criteria. Under this Bill the parole board is required to review the cases of people who were under the age of 18 at the time of their crime, and look at them differently than it does people who were adults. Finally, this Bill considers the placement of individuals under the age of 18 into adult penal institutions. We appreciate your attention to this matter once the Bill B21-0683 passes as law in the District of Columbia.

Sincerely,



Freadie Frost
38 Cottonwood Court
Gaithersburg, MD 20877

To the members of the DC Council:

My name is Ms. Thomas and I am writing this letter on the behalf of my fiancé, Kareem McCraney in reference to the "Comprehensive Youth Justice Amendment Act of 2016" and why this bill should be applied retroactively.

Within the last couple of years, all throughout the United States there has been a push for reform within the juvenile justice system. This push has come from the U.S. Supreme Court and its rulings being applied retroactively, as well as individual states taking the initiative in light of those rulings to change the manner in which they mete out punishment for juvenile offenders. All of this has been done in light of the new knowledge about the juvenile brain and its development, therefore all the psychological experts have concluded through brain science that juveniles are different than adults, and should be held to a standard of lesser culpability, blameworthiness, and responsibility when it comes to crime and punishment. These things have shown that they should have a second chance, some meaningful opportunity to start anew and be productive in life.

If this bill is to be enacted to benefit those youth who have not yet suffered the effects of being confined as children and given life sentences, and defacto life sentences, then it only makes sense that it should apply to those who have lived with the strain of such sentences hovering over their head. In spite of this they have still managed to endure and he has still managed to endure, being productive, progressive an exhibiting a will to aspire and do great and wondrous things despite the environments that he has been placed in since being a youth.

Kareem has managed to get his GED, Associates Degree in Paralegal Studies, Anger Management, Psychology courses, tutoring young men and organizing intramural sports at the institution that he is currently in and these are just a few of some of the things.

He has never been adjudicated as a juvenile, or categorized as a juvenile delinquent, never has he been on probation or been exposed to juvenile treatment or facilities. He was never really given a chance, but in spite of it all he still managed to try and be productive with his life. His family has contacted different organizations to secure him a job as a counselor to mentor young men. The community does not have enough mentoring programs for young men and women so he has developed an outreach program to reach the youths in our community. He has tremendous support now and not just in the DC region but from all other states and organizations throughout the United States. He never ceases to amazes me with his strength and will to push and be great despite the conditions that he lives in.

It would be both unfair and unjust if this bill is passed and it is not applied retroactively. This should be an opportunity to give him and others like him an opportunity to become productive members of society.

The type of punishments that they are now seeking to abolish for future youth based upon what they now know about the juvenile brain are the exact same sentence that he has and those in his situation have, the ones who were confined before this bill was proposed, he is one of the ones who have suffered the most under the old sentencing regime, where judges couldn't go outside of the statute even if they wanted to and was forced to give the sentences that they gave out, and some of them have longer sentences than adults were given during that time.

When we look at the situation, one group is the future, the other past, but they both have been exposed to similar experiences, the only differences is, the future youth will not have to be exposed to and suffer the same punishments that were given back then but at the same time why shouldn't those who have already suffered what you seek to avoid for the future get any relief? Should they continue to languish in a situation and under a sentence that has now been deemed unjust?

We pray that this bill will be considered for retroactivity.

Thank you so much for your time.

Sincerely,

Ms. Thomas

GOVERNMENT OF THE DISTRICT OF COLUMBIA

"Comprehensive Youth Justice Amendment Act of 2016"

Committee on the Judiciary
Kenyan McDuffie, Chairperson
Council of the District of Columbia

Testimony of Clinton Lacey
Director
Department of Youth Rehabilitation Services

June 2, 2016

John A. Wilson Building
1350 Pennsylvania Avenue, NW
Room 500
Washington, D.C.

Good afternoon, Councilmember McDuffie, Committee Members, and staff. I am Clinton Lacey, Director of the Department of Youth Rehabilitation Services (DYRS). Tom Faust, Director of the Department of Corrections (DOC), joins me today.

Thank you for the opportunity to testify to present the Executive's views on Bill 21-683, the "Comprehensive Youth Justice Amendment Act of 2016." We appreciate this important dialogue to best serve court-involved youth and their families, while continuing to promote public safety. We look forward to working with you, the members of the Council, and our District, federal, and advocacy partners, on making the District safer and stronger.

The Executive applauds and supports many of the proposed provisions in the bill. I would, however, like to highlight these provisions, and sections which we believe warrant further discussion and consideration in light of their potential impacts.

Support

Several provisions will put the District at the national forefront in juvenile justice. Specifically, the Executive supports provisions in the bill, to:

1. Prevent the predisposition detention of status offenders;
2. Ban the commitment of youth under the age of 10;
3. Create a parents manual to better inform youth and families about commitment and the resources available to them;
4. Amend the DYRS Establishment Act of 2004 to restrict the use of restraints on juveniles;
5. Eliminate the sentence of life imprisonment without parole for juvenile offenders under the age of 18; and
6. Create a victim mediation program administered by the Office of the Attorney General.

Support with Modification

The Executive believes additional discussion and modification is necessary in light of the potential impact of the following changes.

Data Analysis:

Data collection and analysis, and the use of data to inform our practices, is an important part of the work we do. There is a substantial amount of data related to the juvenile justice system that various stakeholders collect in the District: The Courts, and Court Social Services, collect offense and hearing data, as well as data about social factors; the Metropolitan Police Department collects arrest and initial charge data; the Office of the Attorney General collects charge and hearing data, especially related to diversion and hearing outcomes; the Criminal Justice Coordinating Council (CJCC) aggregates and analyzes data across agencies with a focus on facilities-related data; and DYRS collects admission and discharge data about detained youth at Youth Services Center (YSC) or shelter homes and extensive data related to case management for committed youth.

The "Comprehensive Youth Justice Amendment Act" includes two provisions requiring DYRS to collect and analyze additional data related to justice-involved youth: (1) a yearly root-cause analysis of all committed youth; and (2) an analysis of the effectiveness of all rehabilitation programs for current or former DYRS youth 24 years old or under based on records obtained from six different District agencies. Both provisions, if undertaken as currently written, require significant agency and staff investment that DYRS is not currently in a position to support. In order to produce meaningful results as to the root causes of juvenile crime, data would need to be compiled both for DYRS committed youth and for youth who are not committed to DYRS.

The Criminal Justice Coordinating Council (CJCC) is in a better position to collect and analyze this data due to their infrastructure and expertise in this specific type of work. This will help develop a holistic picture of the root causes of juvenile crime in DC, and evaluate the effectiveness of rehabilitation programs by collecting any available information from other District agencies. CJCC's mission serves as the forum for identifying issues and solutions, proposing actions and facilitating cooperation that will improve public safety and the related criminal and juvenile justice services for residents of the District of Columbia.

Room Confinement Provision:

The legislative proposals combine a number of provisions from various entities including Juvenile Detention Alternative Initiative, American Correctional Association (ACA), and the National Commission on Correctional Health Care. The Executive generally supports these provisions. However, it is important to have a thoughtful, robust discussion about best practices, but also how they can be implemented in a unique jurisdiction like the District.

DYRS and DOC currently employ practices that meet or exceed national standards on room confinement. DOC limits disciplinary room confinement to the standards outlined by the ACA. In addition, under DOC's current policy, juveniles in a restrictive posture are afforded extended out of cell time and receive services and programming equivalent to those juveniles in the general population. Likewise, DYRS Policy 412, which is the facility disciplinary policy that implicates room confinement, limits room confinement to no more than 72 hours. However, despite this limitation, during an audit of room confinement in a four-month period in 2015, DYRS found that of the 514 allegations of major rule violations by our youth, 406 disciplinary hearings were held, 180 hearings resulted in a substantiation of a major rule violation and youth served room confinement in 88 of those cases; 79 of those 88 cases resulted in 24 hours or less of room confinement highlighting that DYRS uses this sanction infrequently and judiciously.

With that said, both DYRS and DOC are re-evaluating their policies, and also monitoring best practices of nationally-accredited agencies. We have been looking thoughtfully and carefully at our room confinement policy because while we use the practice in a limited way, we believe that we can do better. We are meeting with stakeholders, speaking with our staff, and with colleagues in other jurisdictions. We are looking at resources aimed at limiting and eliminating room confinement, and examining other states' policies, to arrive at a policy that is in line with best practices in the country and that addresses the unique needs of our facilities.

Oppose as Currently Proposed

Finally, we do not support the following provisions as they are currently written.

Removal of D.C. Public Schools from Records Sharing Provisions:

The Administration opposes this provision. DYRS and DOC work closely with D.C. Public Schools (DCPS) to improve educational outcomes for its youth.[1] Currently under the D.C. Code § 16-2332, DYRS may share confidential youth records with DCPS making it possible for us to work together to quickly ensure that youth get vital educational services. Removing these provisions will have an impact on the ability of agencies to help youth become re-engaged with the educational system.

Moving Title 16 Youth to the Youth Services Center or New Beginnings:

The District has made dramatic, positive, progress in the conditions of confinement that led to the *Jerry M.* litigation. The parties have entered into a partial settlement of the lawsuit with the mutual understanding that the District was on the course to bring the lawsuit to a close. This progress would be severely jeopardized if Title 16 youth were moved to either of the two secure, juvenile, facilities subject to the *Jerry M.* consent decree. The *Jerry M.* Work Plan goals that remain are those considered most critical to life, safety, and health. They include medical and behavioral health, incidents, staffing and supervision, and fire safety. Each of these areas is highly affected by population. Agency resources are taxed when population exceeds single bed capacity and with the addition of Title 16 youth, this is an inevitability that cannot simply be addressed by more staff. For example, over the last four weeks, the average daily population at YSC has been 96.7; the average daily population for FY16 for Title 16 youth has been 25. This means that the total estimated population is 122 youth. YSC is an 88 bed facility. No matter how many staff members we have, we cannot increase the capacity of the facility without adverse consequences.

Additionally, under the Juvenile Justice Delinquency Protection Act (JJDPA), DYRS will treat these Title 16 youth as adults[2] resulting in this specific population being separated from the other

[1] DC Public Schools is the Local Educational Agency (LEA) for those youth housed at the Youth Services Center and at the D.C. Jail. DCPS is also the LEA for all DYRS committed youth placed at out-of-state residential treatment centers, group homes, and psychiatric residential treatment facilities. DCPS is also the LEA for transition purposes for all youth returning from New Beginnings.

[2] Pursuant to the JJDPA, when juveniles are placed in adult jails and lock-ups, there must be "sight and sound protection," of these youth. See 42 U.S.C. 5633(a)(13)(A) and (B) (requiring that juveniles "do not have contact with adult inmates"). The sight and sound core protection does not apply to youth charged as adults, however, and under JJDPA, Title 16 youth appear to be treated as "adult inmates" from whom juveniles must be separated.

detained youth by sight and sound. This will result in DYRS using at least two 11 bed units for Title 16 youth, effectively lowering the available beds for detained youth from 88 to 66.

When the population at YSC exceeds capacity, youth are housed dormitory style and sleep in modular boats on dayrooms or in communal spaces throughout facility. The facility was not built to support numbers over single-bed capacity. And, while DYRS continues to operate with whatever numbers of youth are detained, sustained population surges leads to significant impacts in facility operations. While this has impacts on staffing, it also has impacts on other areas of facility operations as well.

One area in which high population affects operations is an increase in incidents. While there are a number of factors that contribute to incidents, population pressures lead to heightened tensions amongst youth, staff who are working significant overtime, and the lessened ability of youth to move within the facility.

Another service affected is education. When over capacity, school is conducted in the classroom spaces on the units. However, those spaces are specifically designed to accommodate the 11 youth assigned to the unit. When population exceeds single-bed capacity, school is often moved to the dayroom, and these larger classroom sizes are disruptive and not ideal to learning.

Further, while DYRS would continue to ensure that youth engage in large muscle exercise mandates, prolonged periods of increased population, with the required sight and sound separation would limit the use of the gym potentially preventing consistent exercise and other activities.

DYRS places a high premium on employee morale. Positive staff development and engagement is a critical part of positive youth development. We find that prolonged periods of mandated overtime, which is the only way to continue to meet required staffing ratios when population remains high, is one of the quickest ways to lessen employee morale.

Another cohort of staff that is affected by increased population is medical and behavioral staff. Pursuant to *Jerry M.*, all youth, including overnighters, who are admitted to YSC must undergo an initial medical and mental health risk screening within four hours of their admission. These assessments are conducted by medical staff and the more admissions, the greater the pressure on medical staff to complete the assessments. Additionally, within 24 hours of admission all youth admitted to the YSC must undergo a comprehensive medical assessment. In addition to the basic intake medical and behavioral needs assessments, medical and behavioral health staff will have to address the ongoing needs of increased numbers of youth at the YSC. Further, due to their average length of stay and impending adult incarceration, Title 16 youth could present unique behavioral health needs that could tax the resources of behavioral health staff.

The concerns described above would affect New Beginnings in similar ways as making these changes at the Youth Services Center. While New Beginnings population has consistently remained in the mid-30s, DYRS will bring on a girls unit this summer and is also exploring utilizing additional space for DYRS youth who would otherwise be securely confined in an out of state facility.. Therefore, bringing an additional 25 Title 16 youth to New Beginnings could lead to the same population pressures that would come to the YSC.

In addition, DOC has been creating juvenile services based on a positive youth development model that builds on the juvenile's strengths, provides support, and addresses risk factors that may present barriers to impede progress and positive development. DOC is also enhancing their room confinement procedures by adding progressive practices and meaningful time limits to the use of confinement for Title 16 youth. Further, DOC is building the necessary infrastructure to support additional juvenile programs and operational enhancements at its facilities.

Proposed Route Forward

We applaud providing more appropriate treatment for Title 16 youth. And while there are some practical problems with the Title 16 provision, we believe this legislation is a good start. It does not, however, achieve the more comprehensive, systemic reform that is truly needed. As we have begun to do so in meetings with the Committee and advocacy community, we believe there is a

real opportunity here for government and external stakeholders to collaborate on legislation that will provide the treatment and services that our court-involved youth and their families need and deserve. We look forward to working together this summer to mark up a bill that will achieve this systemic reform.

Thank you for the opportunity to testify and we are prepared to answer any questions you, or the members of the Committee, may have at this time.

Statement of Natalie O. Ludaway
Chief Deputy Attorney General for the District of Columbia

Before the

Committee on the Judiciary
Kenyan McDuffie, Chairperson

Public Hearing

Bill 21-683, the Comprehensive Youth Justice Amendment Act of 2016

June 2, 2016
10:00am
Room 500
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, District of Columbia

Introduction

Good morning Chairman McDuffie, Councilmembers, and staff. I am Natalie O. Ludaway, and I have the privilege of serving as the Chief Deputy Attorney General for the District of Columbia. I am pleased to testify on behalf of Attorney General Karl A. Racine and the Office of the Attorney General (OAG) regarding Bill 21-683, the *Comprehensive Youth Justice Amendment Act of 2016* (Bill), introduced by Chairman McDuffie; Councilmembers Grosso, Nadeau, Bonds, May, Silverman; and Council Chairman Mendelson. OAG supports the goals of the Bill and greatly appreciates the inclusive approach Chairman McDuffie and the Committee on Judiciary are taking with this legislation. I am joined here today by OAG's Deputy Attorney General for Public Safety, Tamar Meekins. Ms. Meekins and her team have been working on many of the issues reflected in the legislation, and she will assist me in answering any questions you may have once I conclude my testimony.

Under the leadership of Attorney General Racine, and with the support of the Committee on the Judiciary, OAG is striving to reform how we approach juvenile justice in the District. For example, OAG achieved a six-fold increase in the rate at which prosecutors divert low-risk youth to programs designed to provide them with the therapeutic support and services they need to avoid re-offending. The ACE diversion program is one such example. Of the youth who have completed the ACE diversion program, more than 90% of them have remained arrest-free in the District. We believe that additional programs and policies that have proven positive outcomes should be adopted and supported. Conversely, those programs and policies that have no long-

term benefit or positive outcomes for the public safety of the community should be examined, revised or restructured. OAG appreciates that this is clearly the spirit in which this Bill was drafted. I will now highlight parts of the legislation and make some additional recommendations to advance these aims.

Title 16 Youth

The Bill proposes a major change to how Title 16 youth are detained. Title 16 youth are those statutorily defined young people, aged 16 or 17, who are charged by the United States Attorney's Office with certain serious offenses and prosecuted as adults.[1] The Bill would require that these youth be detained or imprisoned in juvenile facilities until they reach age 18. As a policy matter, OAG recognizes the growing body of scientific study supporting this as a best practice. The Centers for Disease Control have estimated that juveniles are 35% more likely to reoffend after placement in an adult facility. However, OAG is mindful of the logistical and capacity concerns that would result from this change. Therefore, OAG proposes that a feasibility study be done in a time-certain as determined by the Committee and the Executive, to explore how these changes can be accomplished given current staffing and space constraints.

The Bill also proposes to eliminate mandatory minimum sentencing requirements for Title 16 youth. Attorney General Racine has been consistent in stating that requiring mandatory minimum sentences are not sound policy. Mandatory minimum sentences take away needed

[1] D.C. Official Code Section 16-2301(3) (A).

discretion from judges and prosecutors in fashioning the appropriate dispositions in criminal cases. Each case, circumstance, and defendant is unique. This legislation would permit judges to fashion appropriate sentences based upon the facts, circumstances and arguments of counsel.

Pretrial Detention & Juvenile Sentencing

The Bill proposes to strengthen the pre-disposition presumption against detention for youth. This provision raises some concerns for OAG. The presumption for detention in the cases of alleged violent offenders, including allegations of weapon use, is a sound policy that, when coupled with due process protections, is necessary to public safety in many instances. OAG is happy to work with the Committee and relevant stakeholders between now and mark-up to determine the specific issues to be addressed and amendments to the Code that will adequately protect the public while ensuring fairness in the juvenile justice system.

The Bill also proposes to ban the pre-disposition detention of status offenders. OAG appreciates, and generally supports, the reasoning underlying this provision. However, our practice with status offenders reveals that in some instances there are not adequate and immediate community-based options for the youth. For example, because of the probability of human trafficking, there may be a fear that placement in the community without adequate supports may further place a status offender in danger. In such a circumstance, OAG and the court struggle to identify appropriate placement for the youth – and often the only safe course of action is secure detention at DYRS facilities. OAG believes it is important to prioritize the safety

of the child; therefore we would suggest that, until other options to secure detention are identified, secure DYRS detention should remain available. We would be happy to work with the Council and other juvenile justice stakeholders to suggest and review any other options for this very vulnerable population of youth.

With regard to any proposals regarding outlawing the use of restraints on confined juveniles, I want to first thank Chief Judge Lee F. Satterfield of the Superior Court of the District of Columbia; Councilmember David Grosso; our partners at the Public Defender Service; and you, Chairman McDuffie, for working with OAG last year to develop standards for individualized determinations for restraints on youth during court hearings. Chief Judge Satterfield's leadership on this issue is particularly exemplary. As you may recall, last spring Chief Judge Satterfield issued an Administrative Order that required individual determination of the need for physical restraints on juveniles during initial hearings. Just this week, the Chief Judge issued an updated order, *Administrative Order 16-09: Individual Determinations for the Use of Restraints on Respondents*.[2] This new order makes clear that judges are required to hold a hearing on the need for restraints at all delinquency court hearings. It was necessary to amend the Administrative Order because of an inconsistency in implementation of the original Administrative Order. OAG suggests that data on the use of restraints and outcomes be consistently collected and tracked so that the public and this body can monitor compliance with the spirit of the Administrative Order.

[2] Supersedes *Administrative Order 15-07*

With respect to this Bill at hand today, the restraints provision is narrow and applies specifically to the use of restraints during transportation for pregnant females and those in labor. OAG supports this provision. OAG is advised that there may be a proposal to codify the individualized determination for youth restraints in the Superior Court. If so, we urge the Council, in any such proposed legislation, to closely track Chief Judge Satterfield's order.

Data Collection and Analysis

The Office of the Attorney General wholeheartedly supports any measures that provide the government with data and analysis to best combat delinquency and support youth in the District. In order to maintain safe communities, robust information gathering and review is vital. As written, the Bill requires the Department of Youth Rehabilitation Services to do an annual analysis of the root causes of delinquency and to collect information to evaluate the efficacy of diversion programs. While analysis of the causes of delinquency generally has been done by academic and social justice organizations before, OAG wholeheartedly supports the evaluation of mental health, substance abuse, family therapy, and other services provided to court-involved youth through city contracts. This type of data gathering will not only lead to better public safety outcomes for the public and justice-involved youth, but will lead to increased efficiency in how the city allocates funding. Without this necessary tool, we are left to operate with anecdotal information that could have long-term costly and deleterious effects. OAG suggests, given the breadth of the work and responsibility that DYRS has already and the need to coordinate the data

analysis with all juvenile-justice stakeholders, that this information gathering and analysis responsibility be housed with the Criminal Justice Coordinating Council (CJCC). CJCC member agencies can contribute useful, relevant and helpful information that CJCC staff can then comprehensively analyze.

Establishment of a Victim-Offender Mediation Program

Section 302 of the Bill states:

> *The Attorney General shall develop a program to provide victim-offender mediation as an alternative to the prosecution of juveniles in cases deemed appropriate by the Attorney General; provided, that participation in the mediation program established in this subsection shall be voluntary for both the victim and the offender.*

OAG supports this concept. However, currently we do not have the infrastructure to effectuate this requirement in a manner that would provide the best outcomes. Therefore, OAG supports a pilot Restorative Justice victim-offender mediation program as an alternative to prosecution provided that OAG receive resources for an additional 3 FTEs to supplement the 1 Restorative Justice lawyer the Council granted us in the FY 2017 budget.

Amendment – Domestic Violence[3]

The Office of the Attorney General proposes that a provision be added to clarify domestic violence situations involving the mandatory arrest of juveniles. Under current law,[4] if two brothers or two sisters get into a fight where one is injured, and a parent/guardian or a neighbor calls the police to assist, the police must arrest the youth. Similarly, if a youth injures a parent

[3] This amendment was shared with the DC Coalition Against Domestic Violence for their review and comments. They asked for clarification that the definition of "intimate partner violence" would cover co-parenting situations. The DC Coalition Against Domestic Violence has no objection to this amendment.
[4] DC Official Code § 16-1031

and a neighbor calls the police, the youth must be arrested. In many cases, an arrest is not the best option for the child, the family or the arresting officers. Family counseling and behavioral health supports are far better in these situations. There is frequently no reason that the youth needs to have an arrest record. To permit these youth to be diverted pre-arrest, OAG submitted language to the Committee that amends DC Official Code § 16-1031 as follows:

> *Notwithstanding paragraphs (a) and (b), a law enforcement officer shall not be required to arrest a child, as that term is defined in D.C. Official Code § 16-2301 (3), when there is probable cause to believe that the child has committed an intrafamily offense that does not involve intimate partner violence if the Metropolitan Police Department diverts the child to a program that provides behavioral health and community support services.*

Amendment – Juvenile Sealing Statute

The Office of the Attorney General recommends amending D.C. Official Code §16-2335 to close a loophole in the statute that prevents some deserving youth from having their records sealed. While D.C. Official Code §16-2335.01 establishes the procedure for the immediate sealing of all juvenile records on the ground of actual innocence, D.C. Official Code §16-2335 establishes the procedure for sealing all other juvenile records, upon compliance with time and other restrictions, in situations where the government has filed a petition. It does not, however, specifically provide for the sealing of juvenile arrest records when no petition has been filed. OAG recommends that the Code be amended to specifically permit the sealing of arrest records (records pertaining to youth who have been taken into police custody).[5] We propose amending D.C. Official Code §16-2335(a) to make clear that either an arrest or the filing of a petition may act as the triggering event for the sealing of juvenile records. As noted above, some youth may

[5] D.C. Official Code §16-2335(a) should be amended to read as follows "On motion of a person who has been taken into custody pursuant to section 16-2309 or has been the subject of a petition filed pursuant to section 16-2305, or on the Division's own motion, the Division shall vacate its order and findings and shall order the sealing of the case and social records referred to in sections 16-2331 and 16-2332 and the law enforcement records and files referred to in section 16-2333, or those of any other agency active in the case if it finds that..." [Proposed language underlined.]

be arrested, but not prosecuted. Conversely, the vast majority of youth charged with being in need of supervision (PINS) are not arrested, but a petition is filed. This amendment clarifies that all qualifying youth may have their juvenile justice records sealed.

Conclusion

The Office of the Attorney General provided the Committee with a privileged legal sufficiency memo that discusses some concerns that can be addressed rather easily. In the interest of time, I will not discuss them now, but we greatly appreciate the Committee's invitation to work with them over the summer on this Bill. We are pleased to answer any questions that the members of the Committee may have. Thank you for the opportunity to testify.

THE
PUBLIC
DEFENDER
SERVICE
for the District of Columbia

CHAMPIONS OF LIBERTY

COMMENTS OF THE PUBLIC DEFENDER SERVICE
FOR THE DISTRICT OF COLUMBIA

concerning

BILL 21-683 – THE COMPREHENSIVE YOUTH JUSTICE
AMENDMENT ACT OF 2016

Presented by

Laura E. Hankins
Special Counsel to the Director

before

COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY
COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Kenyan McDuffie

June 2, 2016

Avis E. Buchanan, Director
Public Defender Service
633 Indiana Avenue, N.W.
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Thank you for the opportunity to comment today on Bill 21-683, the Comprehensive Youth Justice Amendment Act of 2016. I am Laura Hankins, Special Counsel to the Director at the Public Defender Service for the District of Columbia. Bill 21-683 is a critical step towards the goals of reducing over-detention of young people and eliminating unnecessarily harsh treatment of young people in our criminal and juvenile justice systems. PDS thanks Committee Chairman McDuffie for introducing this important piece of legislation. Bill 21-683 proposes improvements for youth in the delinquency system, the persons-in-need-of-supervision system, the criminal justice system and the immigration system. PDS will submit more extensive comments before the record closes. My testimony today will highlight parts of the bill, as well as propose some additional provisions, that are a particular priority for PDS.

Delinquency

The District of Columbia over-detains children in the juvenile justice system. PDS is particularly pleased to see that Bill 21-683 recognizes this problem and seeks to make the standard for detaining juveniles more restrictive. D.C. Code § 16-2310 currently allows the detention of a child "to protect the person or property of others or of the child." In PDS's experience, judges have used that standard to detain children for merely negative behavior, based on speculations of long-term harm. For example, judges have ordered children jailed – for that is essentially what secure detention is – for missing school or even just being late to school. Judges have ordered children jailed for smoking marijuana or for disrespecting their teachers. Making the juvenile detention standard more restrictive – as Bill 21-683 would do by allowing detention only if it appears necessary to "protect the person or property of others or of the child *from significant harm*" – would be a considerable improvement.

PDS proposes, however, that this Committee do more to ensure that detention only be used in serious cases and in a targeted manner. Specifically, PDS proposes that the juvenile detention statute be amended to prohibit locking children up based on the risk of harm *to the child.* If the child is at risk of significant harm by others, then the child is a potential victim, and we do not protect victims by putting them in jail. If the child is at risk of causing himself significant physical harm, for example, there may evidence of suicidal ideations, then medical intervention, not jail, would be appropriate. If there is a risk the child will cause himself significant non-physical harm, jail is still not appropriate. Instead of jail, shelter care, pursuant to D.C. Code § 16-2310(b), should be the option when we are concerned that release is inappropriate because the child may be harmed, by his own actions or those of others. Detention, pursuant to § 16-2310(a), should be used only to protect the person or property *of others* from significant harm.

PDS proposes codifying another improvement to the delinquency system, one that would prevent the indiscriminate shackling of children in court. PDS thanks Chairman McDuffie for his leadership last year on this issue and in particular for convening a meeting of the stakeholders to address the issue of juvenile court shackling. PDS also thanks Superior Court Chief Judge Satterfield for hosting that stakeholder meeting and particularly for suggesting that the most expedient approach at that time was for him to issue an Administrative Order, as the practice of indiscriminate shackling in juvenile court cried out for immediate redress. As Chief Judge Satterfield noted during the stakeholder meeting, unlike administrative orders, both the court rules process and the legislative process take time. Although we did not discuss this at the time, it has turned out to be fortunate to have an Administrative Order because it provided a "trial run" of the shackling policy. It gave us time to see how that initial policy works – and does not work –

in practice. Chief Judge Satterfield, just this week, issued Administrative Order 16-09, which significantly improves upon the original order in that it makes clear that the judge is to hold a hearing in every case in which a child arrives in court in shackles, as opposed to holding the hearing only if requested by the child or their lawyer. The District now has an opportunity to put in place a permanent and clearly legally enforceable policy on juvenile courtroom shackling. PDS proposes codifying Administrative Order 16-09. While PDS appreciates the responsiveness of the Chief Judge both to the problem of indiscriminate shackling in juvenile courtrooms and to the shortcomings of the original Administrative Order, we still are concerned about the limited effect of an Administrative Order in resolving the problem. Any question about the enforceability of the Order – for example, whether a child can appeal from a judge's failure to follow the Administrative Order in their case – has not been litigated. Now that all of the stakeholders are of like minds on the policy around juvenile court shackling, the benefit of a permanent law is beyond question. PDS urges this Committee to codify Administrative Order 16-09 to give it the force of law it deserves.

Persons in Need of Supervision ("PINS")

PDS supports the provisions in Bill 21-683 that would prohibit detention of children alleged to be in need of supervision and instead make living in shelter care the most restrictive placement. Persons in need of supervision are what we call status offenders. Their conduct is only an issue because of their "status" as a "child." When you are a "child," you must live where you are told, such as with a parent or guardian; if you do not, you are a "runaway" and might be "in need of supervision." When you are a "child," you must go to school. If you do not, you are "truant" and might be in need of supervision. Bill 21-683 recognizes that secure detention is inappropriate for status offenders. If a child needs more supervision than a parent or guardian can provide, then shelter care is the appropriate placement, not a locked facility.[1] PDS proposes that, just as it prohibits pre-disposition detention of PINS children, Bill 21-683 prohibit housing a post-disposition PINS child in a secure detention facility.

PDS also proposes amending D.C. Code § 16-2322 to limit the time on dispositional orders in PINS cases to the youth's 18th birthday. Currently, a person adjudicated as in need of supervision can be committed to DYRS or on probation until they are twenty-one years old. When a person is adjudicated delinquent, it means they have committed an offense that would have been a crime if it were done by an adult. Having a young adult under court supervision for having engaged as a child in conduct that would get an adult locked up makes sense. But having a young adult under court supervision for conduct that has no legal consequence for an adult makes zero sense and is a waste of resources.

[1] PDS proposes that Bill 21-683 include an amendment to D.C. Code § 16-2312(a)(2)(A) to read as follows: "A detention or shelter care hearing shall be commenced not later than the next day..." This will ensure that children alleged to be in need of supervision but only eligible for shelter care placement still receive the due process of a prompt court hearing before their liberty is restricted.

The Housing of Detained Title 16 Youth

PDS attorneys in different divisions, at different times, represent children who have been charged as adults pursuant to Title 16,[2] children who have been detained in the juvenile system, and children who are committed to the custody of DYRS. These groups of clients are only in potential conflict with each other when there is a lack of appropriate resources for them. The District should do its best to maximize its ability to treat all of these children as children.

Making more restrictive the detention standard for children alleged to be delinquent and eliminating detention of PINS youth, as Bill 21-683 proposes to do, and eliminating detention of alleged delinquent youth based on harm to themselves and restricting such detention to cases of risk of flight or of significant harm to others or their property, as PDS proposes, are all proposals that would free up detention beds and resources. These are all proposals that would allow the District to maximize its ability to treat all children as children.

Records sealing

Finally, PDS supports the proposal from the Attorney General to amend D.C. Code § 16-2335, the juvenile record sealing law. By allowing children who were arrested but never charged to seal their records to the same extent as children whose arrest leads to charges, the Attorney General's proposal would close what appears to be an unintentional, and is definitely an absurd, gap in the law.

[2] The definition of "child" at D.C. Code § 16-2301(3) allows the U.S. Attorney's Office to charge as adults in the criminal justice system 16- and 17-year-olds accused of committing certain offenses. This is sometimes called "direct file," in contrast with filing in adult court after a Family Court transfer hearing pursuant to D.C. Code § 16-2307. Colloquially, direct charging by the U.S. Attorney's Office is also called being "Title 16'd."

ATTACHMENT E

Government of the District of Columbia
Office of the Chief Financial Officer

Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO:	**The Honorable Phil Mendelson** **Chairman, Council of the District of Columbia**
FROM:	**Jeffrey S. DeWitt** **Chief Financial Officer**
DATE:	**October 4, 2016**
SUBJECT:	**Fiscal Impact Statement – Comprehensive Youth Justice Amendment Act of 2016**
REFERENCE:	**Bill 21-683, Committee Print as shared with the Office of Revenue Analysis on September 19, 2016**

Conclusion

Funds are not sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill. The bill will cost $848,000 in fiscal year 2017 and $6.7 million over the course of the four-year financial plan.

Background

This bill, through six titles, proposes significant changes to how the District of Columbia serves court-involved juveniles and families. Below is a title-by-title summary of the key changes the bill proposes.

Title I - Strengthening Youth Services and Rehabilitation Amendment Act of 2016

- Allows[1] law enforcement officers to forgo the arrest of a child that commits an intrafamily offense when that child is diverted to a program providing behavioral health or community support services.
- Prohibits[2] children that are alleged to be "status offenders"[3] from being detained[4] prior to a fact-finding hearing or dispositional hearing.

[1] By amending D.C. Official Code §16-1031.
[2] By amending D.C. Official Code §16-2310.

- Requires[5] a shelter care hearing take place no later than the next day after a child has been taken into custody.
- Requires[6] the Department of Youth Services (DYRS) to place status offenders in a community-based setting for non-delinquent children when the offender is taken into custody. Currently, DYRS detains alleged status offenders and youth charged with delinquent offenses at the same facility – the Youth Services Center (YSC).
- Requires the Department of Corrections (DOC) to transfer custody of all of the Title 16 youth[7] to DYRS by October 1, 2018.
- Eliminates[8] the dentition of children aged sixteen and older at adult dentition facilities. The bill allows Title 16 youth to be housed in the DOC Central Treatment Facility (CTF) until DYRS has enough space to move them into a secure juvenile facility. The bill requires DYRS to post four consecutive quarters of adequate excess capacity before Title 16 youth can be moved into a DYRS facility.[9]
- Prohibits the transfer of legal custody to a public agency when a child[10] is under the age of ten.
- Prohibits the commitment[11] of juvenile status offenders to secure juvenile residential facilities.[12] The District operates two secure juvenile residential facilities - New Beginnings Youth Development Center (NBYDC) and the YSC.
- Terminates[13] the dispositional order vesting legal custody of a youth status offender on his or her eighteenth birthday.
- Authorizes[14] personnel in the Mayor's Family Court Liaison, the Department of Health, the Department of Behavioral Health, the Child and Family Services Agency, the Department of Human Services, the District of Columbia Public Schools, and the Office of the Attorney General to access juvenile case records in order to deliver service, monitor recidivism, and evaluate effectiveness of services.
- Authorizes[15] the sealing of juvenile arrest records.

Title II - Improving the Confinement of Juveniles Act of 2016

- Prohibits penal institutions and secure juvenile facilities from using room confinement to discipline, punish, retaliate, or cover for staff shortages.

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[3] "Status offenders"- also known as "children in need of supervision"- are children that commit an offense that can only be committed by a child such as being habitually truant from school without justification or being disobedient towards his or her guardian.
[4] Detained juveniles are youth that are taken into custody and held at a Department of Youth Rehabilitation Services facility while awaiting adjudication.
[5] By amending D.C. Official Code §16-2312.
[6] By amending D.C. Official Code §16-2313.
[7] Title 16 youth are between the ages of sixteen and eighteen and are treated as if they are adult offenders.
[8] By repealing D.C. Official Code §16-2313(e).
[9] This requirement is located in Title II Section 204 of the bill.
[10] Delinquent children are those who commit and offense under the law and are in need of care or rehabilitation. (D.C. Official Code §16-2301).
[11] Committed juveniles are youth that spend a length of time living in a DYRS facility or community-based placement following adjudication by a D.C. Family Court Judge.
[12] "Secure juvenile residential facility" means a locked residential facility providing custody, supervision, and care for one or more juveniles. (D.C. Official Code §22-2603.01).
[13] By amending D.C. Official Code §16-2322(a).
[14] By amending D.C. Official Code §16-2331(c)(4)(B).
[15] By amending D.C. Official Code §16-2335(a).

- Allows the use of temporary room confinement to respond to behavior that threatens imminent harm to the child or others, and imminent danger to the safe or secure operation of the facility.
- Requires a mental health screening for all children placed into room confinement within one hour of placement.
- Limits the maximum room confinement placement to six hours. After six hours, the child can return to the general population, move to a mental health facility, move to the medical unit in the facility, or receive special individualized programing.
- Requires DYRS and the DOC to publish an annual report that includes detailed information about the use of room confinement. The report must be published every March 1st, starting in 2018.

Title III - Incarceration Reduction Amendment Act of 2016

- Requires[16] the Office of Attorney General (OAG) to develop a pilot program in collaboration with community partners that offers victim-offender mediation as an alternative to the prosecution of children.
- Requires[17] the Criminal Justice Coordinating Council (CJCC) - in cooperation with the DOC and DYRS - to submit a report to the Mayor and the Council every two years on the root causes of youth crime and the prevalence of adverse childhood experiences. CJCC must issue the report for the first time on October 1, 2018
- Eliminates[18] mandatory minimum sentences for children who commit an offense while under the age of eighteen.
- Prohibits the sentencing of children to life imprisonment without the possibility of parole or release.
- Allows the court to reduce a term of imprisonment and a defendant to petition the court for a reduced sentence if a defendant was convicted as an adult while under the age of eighteen and served at least 25 years in prison. The bill outlines the conditions the Court must consider when determining whether a defendant is eligible for a sentence reduction.

Title IV - Rehabilitation Accountability Amendment Act of 2016

- Requires[19] DYRS to develop a manual for families of children residing in secure juvenile facilities. The manual must include information on the operation of the institution or facility, information on government and community resources, and information and resources available for children leaving confinement.

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[16] By amending the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010, effective May 27, 2010 (D.C. Law 18-160; D.C. Official Code § 1-301.81(a)).
[17] By amending Section 1505(a) of the Fiscal Year 2002 Budget Support Act of 2001, October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 22-4234(a)).
[18] By amending An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, approved July 15, 1932 (47 Stat. 697; D.C. Official Code § 24-403, et seq.).
[19] By amending The Department of Youth Rehabilitation Services Establishment Act of 2004, effective April 12, 2005 (D.C. Law 15-335; D.C. Official Code § 2-1515.01 et seq.).

- Requires[20] DYRS to evaluate the effectiveness of rehabilitation programs by collecting information from other District agencies on the education, employment, and criminal justice outcomes for currently or previously committed youth who are under twenty-four. The bill grants DYRS with the authority to collect this information from the Office of the State Superintendent of Education; District of Columbia Public Schools; Public charter schools; University of the District of Columbia; Department of Employment Services; and Metropolitan Police Department.

Title V - Constructive Notice

- Allows[21] publication to be substituted for in-person notification if a defendant cannot be found after diligent efforts.
- Allows[22] public notice of child custody proceedings to be published by the court if a plaintiff is unable to pay the cost of publishing an advertisement.

Title VI - Fraud Prevention Fund Repeal

- Eliminates[23] the obsolete Fraud Prevention Fund which is intended to be used to educate the public regarding fraud and crime prevention.

Financial Plan Impact

Funds are not sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill. The bill will cost $848,000 in fiscal year 2017 and $6.7 million over the course of the four-year financial plan.

Prohibition of Status Offender Secure Detainment and Commitment

The bill prohibits the placement of status offenders in NBYDC and YSC. Instead, status offenders will be placed into community-based placements. DYRS does not have sufficient funds in its budget to pay for an additional thirty community-based placements.[24] DYRS needs an additional $128,000 in fiscal year 2017 and $534,000 over the course of the four-year financial plan to implement these requirements.

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[20] Id.
[21] By amending Chapter 3 of Title 13 of the District of Columbia Official Code.
[22] Id.
[23] By repealing Section 126(n) of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-3226.14).
[24] DYRS depends on Court Social Services (D.C. Superior Court) to provide charge information for youth held overnight or detained at YSC or sent to shelter homes. The fiscal year 2015 data shows that 21 status offenders were detained at YSC and 6 were detained at community shelters. Data for fiscal year 2015 is incomplete and therefore this could be an undercount. ORA assume 30 new status offenders will be detained in community shelters as a conservative estimate. Status offenders stay average twelve days in community shelters.

Projected Fiscal Impact for Bill 21-683 – Comprehensive Youth Justice Amendment Act of 2016 Prohibition of Status Offender Secure Detainment and Commitment					
Fiscal Impact	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**Total**
Total Fiscal Impact	$127,555	$131,382	$135,323	$139,383	$533,643

Table Notes:
(a). Assumes 30 community shelter placements for status offenders diverted from YSC and NBYDC.
(b). Assumes an average daily cost of $354 per youth detained and an average stay of 12 days.
(c). Adjusted by 3 percent annually to account for CPI inflation.

Transfer of Title 16 Custody from DOC to DYRS

The bill requires the transfer of custody for all Title 16 youth under the age of eighteen from DOC to DYRS by October 1, 2018. DYRS must move Title 16 youth into secure juvenile facilities when excess space exceeds the size of the juvenile population at CTF for four consecutive quarters. At this moment, DYRS does not anticipate that adequate space will be available to complete this move within the course of the four-year financial plan. Therefore, ORA's estimate assumes that Title 16 youth will continue to be located at CTF in fiscal year 2019 and fiscal year 2020.

DYRS will need additional funds for its personnel service budget to staff the juvenile unit at CTF. In total, DYRS requires eighteen Youth Development Representatives, five Supervisory Youth Development Representatives, and one Program Manager. DYRS needs an additional $1.71 million in fiscal year 2019 and $3.47 million over the course of the four-year financial plan to implement the requirements in the bill.

Since the bill transfers Title 16 youth custody to DYRS, the DOC will no longer require funds to support a juvenile detention unit. ORA anticipates that these funds can be used to offset a portion of the financial impact to DYRS. DOC can shift $587,000 in fiscal year 2019 and $1.19 million over the four-year financial plan to offset costs to DYRS.

The total financial impact for the Title 16 youth transfer of custody from DOC to DYRS is estimated to cost $1.61 million in fiscal year 2019 and $3.27 million over the course of the four-year financial plan.

Projected Fiscal Impact for Bill 21-683 – Comprehensive Youth Justice Amendment Act of 2016 Transfer of Juvenile Custody from DOC to DYRS					
Fiscal Impact	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**Total**
DYRS Salary	$0	$0	$1,709,952	$1,761,251	$3,471,203
DYRS Fringe	$0	$0	$487,336	$501,956	$989,293
DYRS Total	$0	$0	$2,197,288	$2,263,207	$4,460,496
DOC Salary Reduction	*$0*	*$0*	*($461,623)*	*($475,472)*	*($937,095)*
DOC Fringe Reduction	*$0*	*$0*	*($125,561)*	*($129,328)*	*($254,888)*
DOC Reduction Total	*$0*	*$0*	*($587,184)*	*($604,800)*	*($1,191,983)*
Total Fiscal Impact	**$0**	**$0**	**$1,610,104**	**$1,658,407**	**$3,268,513**

Table Notes:
(a). Assumes 18 Grade-7, 5 Grade-11, and 1 Grade-13 FTEs at a fringe rate of 28.5 percent.
(b). Adjusted by 3 percent annually to account for CPI inflation.

DOC also spends approximately $808,000 on non-personnel services for Title 16 youth. This includes: $300,000 on health care services; $48,000 on food expenses; $300,000 on vocational training - dollars are from U.S. Bureau of Prisons; $68,000 on pharmaceuticals and $100,000 on bedding, clothing, and linens. ORA assumes these fund will also be shifted to DYRS but the shift will not have a net fiscal impact.

Room Confinement Mental Health Screening

The bill requires DOC and DYRS to conduct a mental health screening on children placed into room confinement within one hour of placement. DOC and DYRS use health services staff to conduct mental health screenings. Both DOC and DYRS can absorb the cost of providing mental health screenings within an hour of confinement in over the course of the financial plan.

Room Confinement Monitoring and Reporting

The bill requires DYRS and DOC to publish an annual report that includes detailed information about the use of room confinement. Both DYRS and DOC are able to collect, document, and report on the use of room confinement within existing resources. There is no financial impact to implement this requirement in the bill.

Victim-Offender Mediation Pilot Program

The bill requires the OAG to develop a victim-offender mediation pilot program. The OAG must hire additional three attorneys to establish the program and to provide the services as outlined in the bill. The estimated cost of implementing a victim-offender mediation pilot program is $409,000 in fiscal year 2017 and $1.7 million over the course of the four-year the financial plan.

Projected Fiscal Impact for Bill 21-683 – Comprehensive Youth Justice Amendment Act of 2016 Victim-Offender Mediation Pilot Program					
Fiscal Impact	FY 2017	FY 2018	FY 2019	FY 2020	Total
Salary	$338,865	$349,031	$359,502	$370,287	$1,417,685
Fringe	$69,806	$71,900	$74,057	$76,279	$292,043
Total Fiscal Impact	$408,671	$420,931	$433,559	$446,566	$1,709,728

Table Notes:
(a). Assumes 3 Grade-13, Step-10 FTEs and a fringe rate of 20.6 percent.
(b). Adjusted by 3 percent annually to account for CPI inflation.

Root Causes of Youth Crime Report

The bill requires that the CJCC to submit a report to the Mayor and the Council every two years that addresses the root causes of youth crime and the prevalence of adverse childhood experiences among justice involved youth. The CJCC will hire a statistician and contract with a research assistant and legal consultant to produce the report every two years. In order to complete the study as required by bill, the CJCC needs an additional $214,000 in fiscal year 2017 and $730,000 over the course of the four-year financial plan.

Projected Fiscal Impact for Bill 21-683 – Comprehensive Youth Justice Amendment Act of 2016 Root Causes of Youth Crime Report					
Fiscal Impact	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**Total**
Salary	$115,927	$119,405	$122,987	$126,677	$484,996
Fringe	$20,635	$21,254	$21,892	$22,548	$86,329
Contractual Services	$77,000	$0	$81,689	$0	$158,689
Total Fiscal Impact	$213,562	$140,659	$226,568	$149,225	$730,014

Table Notes:
(a). Assumes 1 Grade-ES 8, and a fringe rate of 17.8 percent.
(b). Contractual services include funds to hire a research assistant at a cost of $64,000 and legal consultant at a cost of $16,000 once every two years.
(b). Adjusted by 3 percent annually to account for CPI inflation.

Juvenile Facility Information Manual

The bill requires DYRS to develop a manual for families of children residing in secure juvenile facilities. DYRS requires an additional $8,000 in fiscal year 2017 and $33,000 over the course of the four-year financial plan in order to develop, print, and distribute manuals to children and their families.

Projected Fiscal Impact for Bill 21-683 – Comprehensive Youth Justice Amendment Act of 2016 Juvenile Facility Information Manual					
Fiscal Impact	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**Total**
Total Fiscal Impact	$8,000	$8,240	$8,487	$8,742	$33,469

Table Notes:
(a). Adjusted by 3 percent annually to account for CPI inflation.

Rehabilitation Program Evaluation

The bill requires DYRS to evaluate and track the effectiveness of rehab programs for previously committed youth under 24 years old. DYRS will need an additional employee to monitor rehabilitation outcomes for the approximate 550 children that are committed each year. DYRS requires an additional $90,000 in fiscal year 2017 and $378,000 over the four year financial plan for salary and fringe to monitor rehabilitation outcomes.

Projected Fiscal Impact for Bill 21-683 – Comprehensive Youth Justice Amendment Act of 2016 Rehabilitation Program Evaluation					
Fiscal Impact	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**Total**
Salary	$70,345	$72,455	$74,629	$76,867	$294,297
Fringe	$20,048	$20,650	$21,269	$21,907	$83,875
Total Fiscal Impact	$90,393	$93,105	$95,898	$98,775	$378,172

Table Notes:
(a). Assumes 1 Grade-12, Step-1 FTE and a fringe rate of 28.5 percent.
(b). Adjusted by 3 percent annually to account for CPI inflation.

Summary of the Total Fiscal Impact

The table below gives a summary of the total financial impact of the bill.

Projected Fiscal Impact for Bill 21-683 – Comprehensive Youth Justice Amendment Act of 2016 Summary of the Total Fiscal Impact					
Fiscal Impact	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**Total**
Prohibition of Status Offender Secure Detainment and Commitment	$127,555	$131,382	$135,323	$139,383	$533,643
Transfer of Juvenile Custody from DOC to DYRS	$0	$0	$1,610,104	$1,658,407	$3,268,511
Confinement Mental Health Screening	$0	$0	$0	$0	$0
Room Confinement Monitoring and Reporting	$0	$0	$0	$0	$0
Victim-Offender Mediation Pilot Program	$408,671	$420,931	$433,559	$446,566	$1,709,727
Root Causes of Youth Crime Report	$213,562	$140,659	$226,568	$149,225	$730,014
Juvenile Facility Information Manual	$8,000	$8,240	$8,487	$8,742	$33,469
Rehabilitation Program Evaluation	$90,393	$93,105	$95,898	$98,775	$378,171
Total Fiscal Impact	**$848,181**	**$794,317**	**$2,509,939**	**$2,501,098**	**$6,653,535**

ATTACHMENT F

OFFICE OF THE GENERAL COUNSEL
Council of the District of Columbia
1350 Pennsylvania Avenue NW, Suite 4
Washington, DC 20004
(202) 724-8026

MEMORANDUM

TO: **Councilmember Kenyan McDuffie**

FROM: **Ellen A. Efros, General Counsel** EAE

DATE: **October 5, 2016**

RE: **Legal Sufficiency Determination for Bill 21-683, the Strengthening Youth Services and Rehabilitation Amendment Act of 2016**

The measure is legally and technically sufficient for Council consideration.

This bill amends various provisions of law to:

- Provide law enforcement officers with the discretion not to arrest a person who is under 18 years of age when there is probable cause to believe that the person has committed an intrafamily offense that does not constitute intimate partner violence; provided, that if an arrest is not made, the person is diverted to a program that provides behavioral health and community support services;
- Require that all persons under the age of 18 that are in the custody of the Department of Corrections be transferred to the custody of the Department of Youth Rehabilitation Services before October 1, 2018;
- Prohibit the transfer of legal custody to a public agency for the care of a delinquent child when the child is under 10 years of age;
- Prohibit a child found in need of supervision, unless also found delinquent, from being committed to or placed in a secure juvenile residential or treatment facility;
- Authorize the Mayor's Family Court Liaison, the Department of Health, the Department of Behavioral Health, the Child and Family Services Agency, the Department of Human Services, the District of Columbia Public Schools, and the Office of the Attorney General for the District of Columbia to inspect juvenile records for limited purposes;
- Outline procedures, limitations, and reporting requirements related to the room confinement of a juvenile;

- Authorize the Office of the Attorney General to develop a pilot program to provide victim-offender mediation as an alternative to prosecution of juveniles in cases deemed appropriate;
- In cases where the person was under 18 years of age when the offense was committed:
    - Authorize the court to issue a sentence less than the minimum term otherwise required by law;
    - Prohibit a court from imposing a sentence of life imprisonment without the possibility of parole or release;
    - Authorize the court to modify a sentence if the defendant has served 25 years in prison for an offense; and
- Provide for several data collection and reporting requirements.

I am available if you have any questions.

ATTACHMENT G

Comparative Committee Print
Committee on the Judiciary
B21-0683
October 5, 2016

Section 102

D.C. Official Code § 16-1031. Arrests.

(a) A law enforcement officer shall arrest a person if the law enforcement officer has probable cause to believe that the person:

(1) Committed an intrafamily offense that resulted in physical injury, including physical pain or illness, regardless of whether or not the intrafamily offense was committed in the presence of the law enforcement officer; or

(2) Committed an intrafamily offense that caused or was intended to cause reasonable fear of imminent serious physical injury or death.

(b) The law enforcement officer shall present the person arrested under subsection (a) of this section to the United States Attorney for charging.

(c)(1) Notwithstanding paragraphs (a) and (b) of this section, a law enforcement officer shall not be required to arrest a person who is under the age of 18 when there is probable cause to believe that the person has committed an intrafamily offense that does not constitute intimate partner violence.

(2) If a person is not arrested under paragraph (1) of this section, the person shall be diverted to a program that provides behavioral health and community support services.

D.C. Official Code § 16-2301. Definitions.

As used in this subchapter --

(1) The term "Division" means the Family Division of the Superior Court of the District of Columbia. Pursuant to section 16-2301.01, the term "Division" shall be deemed to refer to the Family Court of the Superior Court of the District of Columbia.

(1A) "Family Court" means the Family Court of the Superior Court of the District of Columbia.

(2) The term "judge" means a judge assigned to the Family Division of the Superior Court.

(3) The term "child" means an individual who is under 18 years of age, except that the term "child" does not include an individual who is sixteen years of age or older and --

(A) charged by the United States attorney with (i) murder, first degree sexual abuse, burglary in the first degree, robbery while armed, or assault with intent to commit any such offense, or (ii) an offense listed in clause (i) and any other offense properly joinable with such an offense;

(B) charged with an offense referred to in subparagraph (A)(i) and convicted by plea or verdict of a lesser included offense; or

(C) charged with a traffic offense.

For purposes of this subchapter the term "child" also includes a person

under the age of twenty-one who is charged with an offense referred to in subparagraph (A)(i) or (C) committed before he attained the age of sixteen, or a delinquent act committed before he attained the age of eighteen.

(4) The term "minor" means an individual who is under the age of twenty-one years.

(5) The term "adult" means an individual who is twenty-one years of age or older.

(6) The term "delinquent child" means a child who has committed a delinquent act and is in need of care or rehabilitation.

(7) The term "delinquent act" means an act designated as an offense under the law of the District of Columbia, or of a State if the act occurred in a State, or under Federal law. Traffic offenses shall not be deemed delinquent acts unless committed by an individual who is under the age of sixteen.

(8) The term "child in need of supervision" means a child who --

(A)(i) subject to compulsory school attendance and habitually truant from school without justification;

(ii) has committed an offense committable only by children; or

(iii) is habitually disobedient of the reasonable and lawful commands of his parent, guardian, or other custodian and is ungovernable; and

(B) is in need of care or rehabilitation.

(9)(A) The term "neglected child" means a child:

(i) who has been abandoned or abused by his or her parent, guardian, or custodian, or whose parent, guardian, or custodian has failed to make reasonable efforts to prevent the infliction of abuse upon the child. For the purposes of this sub-subparagraph, the term "reasonable efforts" includes filing a petition for civil protection from intrafamily violence pursuant to § 16-1003;

(ii) who is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his or her physical, mental, or emotional health, and the deprivation is not due to the lack of financial means of his or her parent, guardian, or custodian;

(iii) whose parent, guardian, or custodian is unable to discharge his or her responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity;

(iv) whose parent, guardian, or custodian refuses or is unable to assume the responsibility for the child's care, control, or subsistence and the person or institution which is providing for the child states an intention to discontinue such care;

(v) who is in imminent danger of being abused and another child living in the same household or under the care of the same parent, guardian, or custodian has been abused;

(vi) who has received negligent treatment or maltreatment from his or her parent, guardian, or custodian;

(vii) who has resided in a hospital located in the District of Columbia for at least 10 calendar days following the birth of the child, despite a medical determination that the child is ready for discharge from the hospital, and the parent, guardian, or custodian of the child has not taken any action or made any effort to maintain a parental, guardianship, or custodial relationship or contact with the child;

(viii) who is born addicted or dependent on a controlled substance

or has a significant presence of a controlled substance in his or her system at birth;

(ix) in whose body there is a controlled substance as a direct and foreseeable consequence of the acts or omissions of the child's parent, guardian, or custodian; or

(x) who is regularly exposed to illegal drug-related activity in the home.

(B) No child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall for that reason alone be considered a neglected child for the purposes of this subchapter.

(C) Subparagraph (A)(viii), (ix), and (x) of this paragraph shall apply as of October 1, 2003.

(10) Repealed.

(11) Repealed.

(12) The term "custodian" means a person or agency, other than a parent or legal guardian:

(A) to whom the legal custody of a child has been granted by the order of a court;

(B) who is acting in loco parentis; or

(C) who is a day care provider or an employee of a residential facility, in the case of the placement of an abused or neglected child.

(13) The term "detention" means the temporary, secure custody of a child in facilities, designated by the Division, pending a final disposition of a petition.

(14) The term "shelter care" means the temporary care of a child in physically unrestricting facilities, designated by the Division, pending a final disposition of a petition.

(15) The term "detention or shelter care hearing" means a hearing to determine whether a child who is in custody should be placed or continued in detention or shelter care.

(16) The term "factfinding hearing" means a hearing to determine whether the allegations of a petition are true.

(17) The term "dispositional hearing" means a hearing, after a finding of fact, to determine --

(A) whether the child in a delinquency or need of supervision case is in need of care or rehabilitation and, if so, what order of disposition should be made; or

(B) what order of disposition should be made in a neglect case.

(18) The term "probation" means a legal status created by Division order following an adjudication of delinquency or need of supervision, whereby a minor is permitted to remain in the community subject to appropriate supervision and return to the Division for violation of probation at any time during the period of probation.

(19) The term "protective supervision" means a legal status created by Division order in neglect cases whereby a minor is permitted to remain in his home under supervision, subject to return to the Division during the period of protective supervision.

(20) The term "guardianship of the person of a minor" means the duty and authority to make important decisions in matters having a permanent effect on the life and development of the minor, and concern with his general welfare. It includes (but is not limited to) --

(A) authority to consent to marriage, enlistment in the armed forces of the United States, and major medical, surgical, or psychiatric treatment; to represent the minor in

legal actions; and to make other decisions concerning the minor of substantive legal significance;

(B) the authority and duty of reasonable visitation (except as limited by Division order);

(C) the rights and responsibilities of legal custody when guardianship of the person is exercised by the natural or adoptive parent (except where legal custody has been vested in another person or an agency or institution); and

(D) the authority to exercise residual parental rights and responsibilities when the rights of his parents or only living parent have been judicially terminated or when both parents are dead.

(21) The term "legal custody" means a legal status created by Division order which vests in a custodian the responsibility for the custody of a minor which includes --

(A) physical custody and the determination of where and with whom the minor shall live;

(B) the right and duty to protect, train, and discipline the minor; and

(C) the responsibility to provide the minor with food, shelter, education, and ordinary medical care.

A Division order of "legal custody" is subordinate to the rights and responsibilities of the guardian of the person of the minor and any residual parental rights and responsibilities.

(22) The term "residual parental rights and responsibilities" means those rights and responsibilities remaining with the parent after transfer of legal custody or guardianship of the person, including (but not limited to) the right of visitation, consent to adoption, and determination of religious affiliation and the responsibility for support.

(23)(A) The term "abused", when used with reference to a child, means:

(i) infliction of physical or mental injury upon a child;

(ii) sexual abuse or exploitation of a child; or

(iii) negligent treatment or maltreatment of a child.

(B)(i) The term "abused", when used with reference to a child, does not include discipline administered by a parent, guardian or custodian to his or her child; provided, that the discipline is reasonable in manner and moderate in degree and otherwise does not constitute cruelty. For the purposes of this paragraph, the term "discipline" does not include:

(I) burning, biting, or cutting a child;

(II) striking a child with a closed fist;

(III) inflicting injury to a child by shaking, kicking, or throwing the child;

(IV) nonaccidental injury to a child under the age of 18 months;

(V) interfering with a child's breathing; and

(VI) threatening a child with a dangerous weapon or using such a weapon on a child. For purposes of this provision, the term "dangerous weapon" means a firearm, a knife, or any of the prohibited weapons described in § 22-4514.

(ii) The list in sub-subparagraph (i) of this subparagraph is illustrative of unacceptable discipline and is not intended to be exclusive or exhaustive.

(24) The term "negligent treatment" or "maltreatment" means failure to provide adequate food, clothing, shelter, or medical care, which includes medical neglect, and the deprivation is not due to the lack of financial means of his or her parent, guardian, or other

custodian.

(25) The term "sexual exploitation" means a parent, guardian, or other custodian allows a child to engage in prostitution as defined in section 2(1) of the Control of Prostitution and Sale of Controlled Substances in Public Places Criminal Control Act of 1981, effective December 10, 1981 (D.C. Law 4-57; § 22-2701.01 [now § 22-2701.01(3)]), or means a parent, guardian, or other custodian engages a child or allows a child to engage in obscene or pornographic photography, filming, or other forms of illustrating or promoting sexual conduct as defined in section 2(5) of the District of Columbia Protection of Minors Act of 1982, effective March 9, 1983 (D.C. Law 4-173; § 22-3101(5)).

(26) The term "parenting classes" means any program which enhances the parenting skills of individuals through providing role models, discussion, training in early childhood development and child psychology, or other instruction designed to strengthen the parent, guardian, or custodian's ability to nurture children.

(27) The term "family counseling" means any psychological or psychiatric or other social service offered by a provider to the parent and 1 or more members of the extended family or the child's guardian or other caretaker of a child who has been adjudicated neglected, delinquent, or in need of supervision. A caretaker is an adult person in whose care a minor has been entrusted by written authorization of the child's parent, guardian, or legal custodian.

(28) The term "entry into foster care" means the earlier of:

(A) The date of the first judicial finding that the child has been neglected; or

(B) The date that is 60 days after the date on which the child is removed from the home.

(29) The term "Agency" means the Child and Family Services Agency established by section 6-2121.01 [§ 4-1303.01a].

(30) The term "physical injury" means bodily harm greater than transient pain or minor temporary marks.

(31) The term "mental injury" means harm to a child's psychological or intellectual functioning, which may be exhibited by severe anxiety, depression, withdrawal, or outwardly aggressive behavior, or a combination of those behaviors, and which may be demonstrated by a change in behavior, emotional response, or cognition.

(32) The term "sexual abuse" means:

(A) engaging in, or attempting to engage in, a sexual act or sexual contact with a child;

(B) causing or attempting to cause a child to engage in sexually explicit conduct; or

(C) exposing a child to sexually explicit conduct.

(33) The term "sexually explicit conduct" means actual or simulated:

(A) sexual act;

(B) sexual contact;

(C) bestiality;

(D) masturbation; or

(E) lascivious exhibition of the genitals, anus, or pubic area.

(34) The term "sexual act" shall have the same meaning as provided in section 101(8) of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code § 22-3001(8)).

(35) The term "sexual contact" shall have the same meaning as provided in section 101(9) of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code § 22-3001(9)).

(36) The term "controlled substance" means a drug or chemical substance, or immediate precursor, as set forth in Schedules I through V of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-901.01 et seq.), which has not been prescribed by a physician.

(37) The term "drug-related activity" means the use, sale, distribution, or manufacture of a drug or drug paraphernalia without a legally valid license or medical prescription.

(38) The term "incompetent to proceed" means that a child alleged to be delinquent is not competent to participate in a hearing on the petition pursuant to section 16-2316(a) or any other hearing in a delinquency proceeding, except scheduling, status, and competency hearings, because he or she does not have sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding or does not have a rational, as well as a factual, understanding of the proceedings against him or her.

(39) The term "psychiatrist" means a physician who is licensed to practice medicine in the District of Columbia, or is employed by the federal government, and has completed a residency in psychiatry.

(40) The term "qualified psychologist" means a person who is licensed pursuant to section 3-1205.01, and has one year of formal training within a hospital setting, or 2 years of supervised clinical experience in an organized health care setting, one of which must be post-doctoral.

(41)(A) The term "victim" means any person, organization, partnership, business, corporation, agency or governmental entity:

(i) against whom a crime, delinquent act, or an attempted crime or delinquent act has been committed;

(ii) who suffers any physical or mental injury as a result of a crime, delinquent act, or an attempted crime or delinquent act;

(iii) who may have been exposed to the HIV/AIDS virus as a result of a crime, delinquent act, or an attempted crime or delinquent act; or

(iv) who suffers any loss of property, including pecuniary loss, as a result of a crime, delinquent act, or an attempted crime or delinquent act.

(B) The term "victim" shall not include any person who committed or aided or abetted in the commission of the crime, delinquent act, or attempted crime or delinquent act.

(42) The term "immediate family member" means:

(A) the person's parent, brother, sister, grandparent, or child, and the spouse of any such parent, brother, sister, grandparent, or child;

(B) any person who maintains or has maintained a romantic relationship, not necessarily including a sexual relationship, with the person; or

(C) any person who has a child in common with the person.

(43) The term "weapons offense" means any violation of any law, rule, or regulation which involves the sale, purchase, transfer in any manner, receipt, acquisition, possession, having under control, use, repair, manufacture, carrying, or transportation of any firearm, ammunition, or destructive device as these terms are defined in section 7-2501.01.

(44) The term "domestic partner" shall have the same meaning as provided in § 32-701(3).

(45) The term "Superior Court" means the Superior Court of the District of Columbia.

(46) The term "penal institution" shall have the same meaning as provided in § 22-2603.01(6).

D.C. Official Code § 16-2310. Criteria for detaining children.

(a) A child shall not be placed in detention prior to a factfinding hearing or a dispositional hearing unless he is alleged to be delinquent ~~or in need of supervision~~ and unless it appears from available information that detention is required --

(1) ~~to protect the person or property of others or of the child, or~~ to protect the person or property of others from significant harm, or

(2) to secure the child's presence at the next court hearing.

(a-1)(1) There shall be a rebuttable presumption that detention is required to protect the person or property of others if the judicial officer finds by a substantial probability that the child:

(A) Committed a dangerous crime or a crime of violence while armed with or having readily available a pistol, firearm, or imitation firearm; or

(B) Committed CPWL, carrying a pistol without a license.

(2) For the purposes of this subsection, the terms "dangerous crime" and "crime of violence" shall have the same meanings as provided in section 23-1331, except that these terms shall not include:

(A) Any felony offense under Chapter 27 of Title 22 (Prostitution, Pandering);

(B) Any felony offense under Chapter 9 of Title 48 (Controlled Substances);

(C) Burglary; or

(D) Arson.

(b) A child shall not be placed in shelter care prior to a factfinding hearing or a dispositional hearing unless it appears from available information that shelter care is required --

(1) to protect the person of the child, or

(2) because the child has no parent, guardian, custodian, or other person or agency able to provide supervision and care for him, and the child appears unable to care for himself and that

(3) no alternative resources or arrangements are available to the family that would adequately safeguard the child without requiring removal.

(c) The criteria for detention and shelter care provided in this section, as implemented by rules of the Superior Court, shall govern the decisions of all persons responsible for determining whether detention or shelter care is warranted prior to the factfinding hearing.

(d) Whenever a child has been placed in shelter care, the child's parent, guardian or custodian shall be permitted visitation at least weekly unless it appears to the judge that such visitation rights would create an imminent danger to or be detrimental to the well-being of the child, in which case, the judge shall either prescribe a schedule of visitation rights or order that visitation rights not be allowed.

(e) Fact finding hearings for children ordered into secure detention or ordered into shelter care shall be held within the time limits provided in this subsection.

(1)(A) Except as provided in subparagraph (B) of this paragraph and paragraph (2) of this subsection, whenever a child has been ordered into secure detention before a factfinding hearing pursuant to §§ 16-2310 through 16-2313, the factfinding hearing set forth in § 16-2316 shall commence not later than 30 days from the date at which the Family Court ordered the child to be detained pursuant to § 16-2312.

(B) Except as provided in paragraph (2) of this subsection, whenever a child is charged with murder, assault with intent to kill, first degree sexual abuse, burglary in the first degree, or robbery while armed, and the child has been ordered into secure detention before a factfinding hearing pursuant to §§ 16-2310 through 16-2313, the factfinding hearing set forth in § 16-2316 shall commence not later than 45 days from the date at which the Family Court ordered the child to be detained pursuant to § 16-2312.

(C) Except as provided in paragraph (2) of this subsection, whenever a child has been ordered into shelter care before a factfinding hearing pursuant to §§ 16-2310 through 16-2313, the factfinding hearing set forth in § 16-2316 shall commence not later than 45 days from the date at which the Family Court ordered the child to be placed in shelter care pursuant to § 16-2312.

(2)(A) Except as provided in subparagraphs (B) and (C) of this paragraph, upon motion of the Attorney General, for good cause shown, the factfinding hearing of a child ordered into secure detention or a child who is ordered into shelter care may be continued, and the child continued in secure detention or shelter care, for only one additional period, not to exceed 30 days.

(B) Upon motion of the Attorney General, for good cause shown, the factfinding hearing may be continued, and the child continued in secure detention or shelter care, for additional periods not to exceed 30 days each, if:

(i) The child is charged with murder, assault with intent to kill, or first degree sexual abuse;

(ii) The child is charged with a crime of violence, as defined in § 23-1331(4), committed while using a pistol, firearm, or imitation firearm; or

(iii) Despite the exercise of due diligence by the District and the federal agency, DNA evidence, analysis of controlled substances, or other evidence processed by federal agencies has not been completed.

(C)(i) Upon a motion by or on behalf of the child consistent with the rules of the Superior Court of the District of Columbia, the factfinding hearing of a child ordered into secure detention or a child who is ordered into shelter care may be continued for additional periods not to exceed 30 days each.

(ii) A motion made under sub-subparagraph (i) of this subparagraph shall not be construed as a waiver of the child's speedy trial rights under this section nor under the Sixth Amendment of the United States Constitution.

(D) Additional continuances of the factfinding hearing may be granted to the Office of Attorney General if the child is no longer in either secure detention or shelter care.

(3) In determining whether good cause has been shown as required by paragraph (2) of this subsection, the Division shall take into account, among other appropriate matters, and shall state its findings on the record, as to whether:

(A) There has been or will be a delay resulting from other proceedings concerning the child, including, but not limited to, examinations to determine the mental competency or physical capacity of the child; from a hearing with respect to other charges against the child; from any interlocutory or expedited appeal; from the making, or consideration by the

Division, of any pretrial motions; and from any proceeding relating to the transfer of the child pursuant to § 16-2307;

(B) Any essential witness is absent or unavailable. For purposes of this subparagraph, an essential witness shall be considered absent when his or her whereabouts are unknown or cannot be determined by due diligence and shall be considered unavailable when his or her presence for the hearing cannot be obtained by due diligence;

(C) Despite the exercise of due diligence, necessary autopsies, medical examinations, fingerprint examinations, ballistic tests, drug analysis, or other scientific tests have not been completed; or

(D) The ends of justice served by continuing the period of detention outweigh the interests of the child and public in a speedy trial.

(4) Upon motion by or on behalf of the child, a child in secure detention or shelter care shall be released from custody or shelter care if the fact finding hearing is not commenced within the time period set forth in this subsection.

(f) No provision of this section shall be construed as a bar to any claim of denial of speedy trial as required by the Sixth Amendment of the United States Constitution.

D.C. Official Code § 16-2312. Detention or shelter care hearing; intermediate disposition.

(a)(1) When a child is not released as provided in section 16-2311 and the child is alleged to be abused or neglected:

(A) A guardian ad litem shall be appointed to represent the child's best interest within 24 hours (excluding Sundays) of the child having been taken into custody;

(B) A shelter care hearing shall be commenced not later than 72 hours (excluding Sundays) after the child has been taken into custody; and

(C) A petition shall be filed at or prior to the shelter care hearing.

(2) When a child is not released as provided in section 16-2311 and the child is alleged to be delinquent~~ or a child in need of supervision~~:

(A) A detention hearing shall be commenced not later than the next day (excluding Sundays) after the child has been taken into custody or transferred from another court as provided by section 16-2302; and

(B) A petition shall be filed at or prior to the detention hearing.

(3) When a child is not released as provided in § 16-2311 and the child is alleged to be a child in need of supervision:

(A) A shelter care hearing shall be commenced not later than 72 hours (excluding Sundays) after the child has been taken into custody; and

(B) A petition shall be filed at or prior to the shelter care hearing.

(a-1)(1) During the 72-hour period authorized in subsection (a)(1) of this section, the Agency may convene a family team meeting to solicit the input of family members, relatives, and others concerned with the welfare of the child to develop a safety plan approved by the Agency. At a minimum, the Agency shall invite parents, relatives, caregivers, community representatives, service providers, and the guardian ad litem appointed to represent the child's best interest to attend a family team meeting.

(2) The Agency shall summarize the discussion from a family team meeting and record the safety plan approved by the Agency in the appropriate electronic database, and distribute a copy of the plan to all participants of the family team meeting. The safety plan shall clearly

outline the roles and responsibilities of each participant and the target dates for each action set forth in the plan.

(b) Prompt notice of the detention or shelter care hearing shall be given, if delinquency or need of supervision is alleged, to the child, and to his spouse (if any), parent, guardian, or custodian, if he can be found, or, if neglect is alleged, to the child, and to the parent, guardian, or custodian named in the petition if he can be found. Counsel for the child, and in neglect cases counsel for the parent, guardian, or custodian, shall be entitled to a copy of the petition prior to the hearing.

(c) At the commencement of the hearing the judge shall advise the parties of the right to counsel, as provided in section 16-2304, and shall appoint counsel if required. He shall also inform them of the contents of the petition and shall afford the child, or in a neglect case, the parent, guardian, or custodian, an opportunity to admit or deny the allegations in the petition. He shall then hear from the Corporation Counsel to determine whether the child should be placed or continued in detention or shelter care under the criteria in section 16-2310. The child and his parent, guardian, or custodian shall have a right to be heard in their own behalf.

(d)(1) At the conclusion of the hearing, the judge shall --

(A) order detention or shelter care, setting forth in writing his reasons therefor, if he finds that the child's detention or shelter care is required under the criteria in section 16-2310; or

(B) order the child released if he finds that the child's detention or shelter care is not required under such criteria.

(2) If a child is ordered released under paragraph (1)(B) of this subsection, the judge may impose one or more of the following conditions:

(A) Placement of the child in the custody of a parent, guardian, or custodian or under supervision of a person or organization agreeing to supervise him.

(B) Placement of restrictions on the child's travel, activities, or place of abode during the period of release.

(C) Any other condition reasonably necessary to assure the appearance of the child at a factfinding hearing or his protection from harm, including a requirement that the child return to the physical custody of the parent, guardian, or custodian after specified hours.

(3) If neglect is alleged, an order of shelter care under this subsection shall include a determination of whether:

(A) Reasonable efforts were made to prevent or eliminate the need for removal, or, in the alternative, a determination that the child's removal from the home is necessary regardless of any services that could be provided to the child or the child's family; and

(B) Continuation of the child in the child's home would be contrary to the welfare of the child.

(e) When a judge finds that a child's detention or shelter care is required under the criteria of section 16-2310, he shall then hear evidence presented by the Corporation Counsel to determine whether there is probable cause to believe the allegations in the petition are true. The child, his parent, guardian or custodian may present evidence on the issues and be heard in their own behalf.

(f) When a judge finds there is probable cause to believe the allegations in the petition are true, he shall order the child to be placed or continued in detention or shelter care and set forth is reasons. When a judge finds that there is not probable cause to believe the allegations in the petition are true, he shall order the child to be released.

(g) The Division at a detention or shelter care hearing may not postpone the determination

of whether detention or shelter care is required. For good cause shown, however, the Division may grant a continuance of any other part of the hearing (including the filing of a petition) for a period not to exceed five days.

(h) On motion by or on behalf of the child, a child in custody shall be released from custody if his detention or shelter care hearing is not commenced within the time set herein.

(i) If a child is not released after his detention or shelter care hearing and the parent, guardian or custodian did not receive notice thereof, the Division may, in the interest of justice, conduct a new hearing in accordance with rules prescribed by the Superior Court.

(j) Upon objection of the child or his parent, guardian or custodian, a judge who conducted a detention or shelter care hearing shall not conduct a factfinding hearing on the petition.

(k) A presumption shall exist that a child will attend the same school that he or she would have attended but for the child's entry into shelter care, unless it is determined that it is not in the child's best interest to do so.

D.C. Official Code § 16-2313. Place of detention or shelter.

(a) A child who is alleged ~~to be neglected~~ to be neglected or in need of supervision and who is in custody may be placed at any time prior to disposition, only in --

(1) a foster home;

(2) a group home, youth shelter, or other appropriate home for nondelinquent children; or

(3) another facility for shelter care designated by the Division, including an appropriate facility operated by the District of Columbia.

No child alleged to be neglected may be placed in a facility described in paragraph (3) of subsection (b) of this section.

(b) A child who ~~is alleged to be in need of supervision or (except as provided in subsection (d) or (e))~~ is alleged to be delinquent and who is in custody may be detained at any time prior to disposition only in --

(1) a foster home;

(2) a group home, youth shelter, or other appropriate home for allegedly delinquent children; or

(3) a detention home for allegedly delinquent children ~~or children alleged to be in need of supervision~~, designated by the Division, including an appropriate facility operated by the District of Columbia.

Unless the Division shall by order so authorize, no child may be detained in a facility described in paragraph (3) if it would result in his commingling with children who have been adjudicated delinquent and committed by order of the Division.

(c) A child in detention or shelter care may be temporarily transferred to a medical facility for physical care and may, on order of the Division, be temporarily transferred to a facility for mental examination or treatment.

(d)(1) ~~Except as provided in subsection (e), no~~ No child under eighteen years of age may be detained in a jail or other facility for the detention of adults, unless transferred as provided in section 16-2307. The appropriate official of a jail or other facility for the detention of adults shall inform the Superior Court immediately when a child under the age of eighteen years is received there (other than by transfer) and shall (1) deliver him to the Director of Social Services upon request, or (2) transfer him to a detention facility described in ~~subsection (b)(3);~~ subsection (b)(3);

provided, that beginning October 1, 2018, no person under 18 years of age may be held in the custody of the Department of Corrections.

(2) All persons under the age of 18 that are in the custody of the Department of Corrections must be transferred to the custody of the Department of Youth Rehabilitation Services prior to October 1, 2018.

(3) After October 1, 2018, the Department of Corrections shall inform the Superior Court immediately if a person under the age of 18 years is transferred to the Department of Corrections and shall transfer the individual to the Department of Youth Rehabilitation Services.

~~(e) A child sixteen years of age or older who is alleged to be delinquent and who is in detention, whose conduct constitutes a menace to other children, and who cannot be controlled, may on order of the Division be transferred to a place of detention for adults, but shall be kept separate from adults.~~

(f) The department or agency having custody, pursuant to a shelter care order, of a child alleged to be a neglected child shall give notice, which may be oral, of any change in the placement of the child to the child's parent, the child's guardian ad litem and the child's foster parent, if any, at least forty-eight (48) hours prior to the change in placement, except that in the case of an emergency, notice shall be given no later than twenty-four (24) hours (excluding Saturdays, Sundays and legal holidays) after the change. Notice need not be given to the parent where the Division has found that visitation would be detrimental to the child or the Division has determined that the parent should not be apprised of the child's location. Upon the request of any person entitled to notice under this subsection, the department or agency having legal custody of the child shall afford an opportunity for an administrative hearing to review the proposed change in the placement of the child, except that the department or agency need not conduct such a hearing if the requestor does not qualify as a party pursuant to D.C. Official Code, section 16-2304.

D.C. Official Code § 16-2320. Disposition of child who is neglected, delinquent, or in need of supervision.

(a) If a child is found to be neglected, the Division exercising juvenile jurisdiction shall also have jurisdiction over any natural person who is a parent or caretaker of the child to secure the parent or caretaker's full cooperation and assistance in the entire rehabilitative process and may order any of the following dispositions which will be in the best interest of the child:

(1) Permit the child to remain with his or her parent, guardian, or other custodian, subject to such conditions and limitations as the Division may prescribe, including, but not limited to, the following services for the child and his or her parent, guardian, or other custodian:

(A) medical, psychiatric, or other treatment at an appropriate facility under protective supervision;

(B) parenting classes; and

(C) family counseling.

(2) Place the child under protective supervision.

(3) Transfer legal custody to any of the following --

(A) a public agency responsible for the care of neglected children;

(B) a child placing agency or other private organization or facility which is licensed or otherwise authorized by law and is designated by the Mayor of the District of Columbia to receive and provide care for the child; or

(C) a relative or other individual who is found by the Division to be

qualified to receive and care for the child except that no child shall be ordered placed outside his or her home unless the Division finds the child cannot be protected in the home and there is an available placement likely to be less damaging to the child than the child's own home.

It shall be presumed that it is generally preferable to leave a child in his or her own home.

(4) Commitment of the child for medical, psychiatric, or other treatment at an appropriate facility on an in-patient basis if, at the dispositional hearing provided for in section 16-2317, the Division finds that confinement is necessary to the treatment of the child. A child for whom medical, psychiatric, or other treatment is ordered may petition the Division for review of the order thirty days after treatment under the order has commenced, and, if, after a hearing for the purpose of such review, the original order is affirmed, the child may petition for review thereafter every six months.

(5) The Division may make such other disposition as is not prohibited by law and as the Division deems to be in the best interests of the child. The Division shall have the authority to (i) order any public agency of the District of Columbia to provide any service the Division determines is needed and which is within such agency's legal authority and (ii) order any private agency receiving public funds for services to families or children to provide any such services when the Division deems it is in the best interests of the child and within the scope of the legal obligations of the agency.

(6) Terminate the parent and child relationship for the purpose of seeking an adoptive placement for the child pursuant to subchapter III of this chapter.

(b) Unless a child found neglected is also found to be delinquent, he shall not be committed to, or confined in, an institution for delinquent children.

(c) If a child is found to be delinquent or in need of supervision, the Division exercising juvenile jurisdiction shall also have jurisdiction over any natural person who is a parent or caretaker of the child to secure the parent or caretaker's full cooperation and assistance in the entire rehabilitative process and may order any of the following dispositions which will be in the best interest of the child:

(1) Any disposition authorized by subsection (a) of this section (other than paragraphs (3)(A) and (5) thereof).

(2) Transfer of legal custody to a public agency for the care of ~~delinquent children.~~ delinquent children, except that legal custody shall not be transferred to a public agency for the care of delinquent children when the child in question is less than 10 years of age.

(3) Probation under such conditions and limitations as the Division may prescribe, including but not limited to the completion of parenting classes or family counseling in cases where either or both was ordered by the Division.

(c-1) The Division shall order any child between the ages of 14 and 18 years who is found to be delinquent or in need of supervision to perform a minimum of 90 hours of community service with an agency of the District government or a non-profit or community service organization in accordance with section 24-904(a).

(c-2) When determining what disposition shall be ordered under subsection (c) of this section, the Division shall consider any victim impact statement submitted to the Division and the victim, or the immediate family members of the victim when the victim is a child or when the victim is deceased or incapacitated, shall have the right to make a statement at the disposition hearing. The absence of the victim at disposition shall not preclude the court from holding the hearing.

(c-3) When determining what disposition shall be ordered under subsection (a) of this section, the Division may consider a child's failure to appear at a scheduled hearing.

~~(d) No child found in need of supervision, as defined by section 16-2301(8), unless also found delinquent, shall be committed to or placed in an institution or facility for delinquent children, but shall be released to the child's parent, guardian, or custodian, unless the return of the child will result in placement in, or return to, an abusive situation, or the child's parent, guardian, or custodian is unwilling or unable to care for or supervise the child. If the return of the child will result in placement in, or return to, an abusive situation, or if the child's parent, guardian, or custodian is unwilling or unable to care for or supervise the child, the Child and Family Services Agency shall open a neglect investigation.~~ (d)(1) No child found in need of supervision, unless also found delinquent, shall be committed to or placed in a secure juvenile residential facility, as defined in section 22-2603.01(7), or a secure residential treatment facility for delinquent juveniles.

(2) Except as provided in paragraph (1) of this subsection, a child found in need of supervision shall be released to the child's parent, guardian, or custodian; provided, that such child may be committed to or placed in a foster home, group home, youth shelter, or other appropriate home for children in need of supervision if the return of the child will result in placement in, or return to, an abusive situation, or the child's parent, guardian, or custodian is unwilling or unable to care for or supervise the child. If the return of the child will result in placement in, or return to, an abusive situation, or if the child's parent, guardian, or custodian is unwilling or unable to care for or supervise the child, the Child and Family Services Agency shall open a neglect investigation.

(e) No child who is found to be delinquent, in need of supervision, or neglected shall be committed to a penal or correctional institution for adult offenders.

(f) In its dispositional order for a child adjudicated neglected, the Division shall:

(1) Address the matters set forth in section 16-2319(c) by accepting, modifying, or rejecting the plan submitted pursuant thereto. If the plan is rejected or major modifications are made, the agency charged with service responsibility shall within 30 days submit to the Division and to all parties a plan which addresses the matters delineated in section 16-2319(b). The agency responsible for providing the services shall promptly report to the Division and all parties if it is unable for whatever reasons to provide the services delineated in the plan;

(2) Include a determination of whether:

(A) Reasonable efforts were made to prevent or eliminate the need for removal, or, in the alternative, that the child's removal from the home is necessary regardless of any services that could be provided to the child or the child's family; and

(B) Continuation of the child in the child's home would be contrary to the welfare of the child.

(g) The department or agency to whom the legal custody of a child has been transferred pursuant to subsection (a) of this section shall give notice, which may be oral, of any change in the placement of the child to the child's parent, the child's guardian ad litem and the child's foster parent at least ten (10) days prior to the change in placement, except that in the case of an emergency notice shall be given no later than twenty-four (24) hours (excluding Saturdays, Sundays and legal holidays) after the change. Notice of a change in placement need not be given to the parent when the judge has determined that visitation would be detrimental to the child or the judge has determined that the parent should not be apprised of the child's location. Upon the request of any person entitled to notice under this subsection the department or agency having legal custody of the child shall afford an opportunity for an administrative hearing to review the proposed change in the placement of the child. Except in the case of an emergency, the hearing

shall be held and a decision rendered prior to a change in the placement.

(h) Any child who is found to be delinquent for violation of the provisions of the District of Columbia Uniform Controlled Substances Act of 1981 may, in addition to any other disposition ordered by the court for his supervision, care, and rehabilitation, be ordered to attend classes conducted by the Mayor pursuant to section 48-905.04(c).

D.C. Official Code § 16-2322. Limitation of time on dispositional orders.

(a)(1) A dispositional order vesting legal custody of a neglected child in a department, agency, or institution shall remain in force for an indeterminate period not exceeding two years. Unless the order specifies that release is permitted only by order of the Division, the department, agency, or institution may release the child at any time that it appears the purpose of the disposition order has been achieved.

(2) An order vesting legal custody of a child in an individual other than his parent shall remain in force for two years unless sooner terminated by order of the Division.

(3) An order of probation or a protective supervision order shall remain in force for a period not exceeding one year from the date entered, but the Director of Social Services or the agency providing supervision may terminate supervision at any time that it appears the purpose of the order has been achieved.

(4) ~~Subject to subsection (f) of this section, a~~ A dispositional order vesting legal custody of a child adjudicated delinquent ~~or in need of supervision~~ in a department, agency, or institution shall remain in force for an indeterminate period not to exceed the youth's twenty-first birthday. Unless the order sets a minimum period for commitment of the child, or specifies that release is permitted only by order of the Division, the department, agency, or institution may release the child at any time that it appears the purpose of the disposition order has been achieved.

(5) Subject to subsection (f) of this section, a dispositional order vesting legal custody of a child adjudicated in need of supervision in a department, agency, or institution shall remain in force for an indeterminate period not to exceed the youth's 18th birthday. Unless the order sets a minimum period for commitment of the child, or specifies that release is permitted only by order of the Division, the department, agency, or institution may release the child at any time that it appears the purpose of the disposition order has been achieved.

(b) A dispositional order vesting legal custody of a neglected child in an agency or institution may be extended for additional periods of one year upon motion of the department, agency, or institution to which the child was committed, if, after notice and hearing, the Division finds that the extension is necessary to safeguard the welfare of the child.

(c) Any other dispositional order may be extended for additional periods of one year, upon motion of the Director of Social Services or the Corporation Counsel, if, after notice and hearing, the Division finds that extension is necessary to protect the interest of the child.

(d) A release or termination of an order prior to expiration of the order pursuant to subsection (a)(1) or (3), shall promptly be reported in writing to the Division.

(e) Upon termination of a dispositional order a child shall be notified in writing of its termination. Upon termination of an order or release a child shall be notified, in accordance with rules of the Superior Court, of his right to move for the sealing of his records as provided in section 16-2335.

(f) Unless sooner terminated, all orders of the Division under this subchapter in force with respect to a child terminate when ~~he~~ the child reaches twenty-one years of ~~age~~ age, except that

orders under this subchapter in force with respect to a child adjudicated in need of supervision, but not delinquent, terminate when the child reaches 18 years of age.

D.C. Official Code § 16-2331. Juvenile case records; confidentiality; inspection and disclosure.

(a) For the purposes of this section, the term "juvenile case records" means the following records of a case over which the Family Court has jurisdiction under section 11-1101(13):

(1) Notices filed with the court by an arresting officer pursuant to this subchapter;

(2) The docket of the court and entries therein;

(3) Complaints, petitions, and other legal papers filed in the case;

(4) Transcripts of proceedings before the court;

(5) Findings, verdicts, judgments, orders, and decrees; and

(6) Other writings filed in proceedings before the court, other than social records.

(b) Except as otherwise provided in this section and in section 16-2333.01, juvenile case records shall be kept confidential and shall not be open to inspection, nor shall information from records inspected be divulged to unauthorized persons.

(c) Subject to the limitations of subsection (f) of this section, the following entities and persons may inspect juvenile case records:

(1) The Courts:

(A) Judges and professional staff of the Superior Court; and

(B) Any court in which the respondent is charged or convicted as a respondent in a delinquency matter, or status offense, or as a defendant in a criminal offense, or the court's probation staff.

(2) Family Court case participants:

(A) The Attorney General and his assistants assigned to the Family Court;

(B) The respondent and any attorney for the respondent without regard to the age of the respondent at the time of the inspection and without regard to the existence of a pending Family Court case;

(C) The parents or guardians and any attorney for them without regard to the age of the respondent at the time of the inspection and without regard to the existence of a pending Family Court case;

(D) Unless the release of the information is otherwise prohibited by law or includes mental health information, each victim, or the immediate family member or custodians of each victim if the victim is a child or is deceased or incapacitated, and their duly authorized attorneys, at the discretion of the Attorney General and when the information relates to:

(i) Release status;

(ii) The level of respondent's placement;

(iii) Stay-away orders imposed;

(iv) Respondent's participation in diversion or a consent decree;

(v) The offenses charged in the petition;

(vi) The terms of any plea agreements, findings, or verdicts related to the adjudication of the case; or

(vii) Commitment or probational status;

(E) Unless the release of information is otherwise prohibited by law or includes mental health information, each eyewitness, or the immediate family members or

custodians of each eyewitness if the eyewitness is a child or is deceased or incapacitated, and their duly authorized attorneys, at the discretion of the Attorney General or of the respondent's attorney and when the information relates to:

(i) Release status;

(ii) The level of respondent's placement;

(iii) Stay-away orders imposed;

(iv) Respondent's participation in diversion or a consent decree;

(v) The offenses charged in the petition;

(vi) The terms of any plea agreements, findings, or verdicts related to the adjudication of the case; or

(vii) Commitment or probational status; and

(F) Public or private agencies or institutions providing supervision or treatment or having custody of the child, if supervision, treatment, or custody is under order of the Family Court;

(3) Other court case participants and law enforcement:

(A) The United States Attorney for the District of Columbia, his assistants, and any other prosecuting attorneys, or defense attorneys, when necessary for the discharge of their official duties;

(B) Any law enforcement personnel when necessary for the discharge of their official duties;

(C) The Pretrial Services Agency of the District of Columbia when necessary for the discharge of its official duties; and

(D) The Court Services and Offender Supervision Agency for the District of Columbia when necessary for the discharge of its official duties;

(4) Government agencies and entities:

(A) The Mayor in accordance with [§ 50-1403.02];

(B) ~~Authorized personnel in the Mayor's Family Court Liaison, the Department of Health, the Department of Mental Health, the Child and Family Services Agency, the Department of Human Services, and the District of Columbia Public Schools for the purpose of delivery of services to individuals under the jurisdiction of the Family Court, or their families;~~ Authorized personnel in the Mayor's Family Court Liaison, the Department of Health, the Department of Behavioral Health, the Child and Family Services Agency, the Department of Human Services, the District of Columbia Public Schools, and the Office of the Attorney General for the District of Columbia for the purpose of:

(i) The delivery of services to:

(I) Individuals under the jurisdiction of the Family Court, or their families; and

(II) Youth who have been diverted by law enforcement, by the Office of the Attorney General for the District of Columbia, or pursuant to § 16-2305.02; or

(ii) Monitoring recidivism and the efficacy of services provided to:

(I) Individuals under the jurisdiction of the Family Court; and

(II) Youth who have been diverted b law enforcement, by the Office of the Attorney General for the District of Columbia, or pursuant to section § 16-2305.02;

(C) The Child Fatality Review Committee for the purposes of examining past events and circumstances surrounding deaths of children in the District of Columbia or of

children who are either residents or wards of the District of Columbia, or for the discharge of its official duties;

(D) The Children's Advocacy Center and the public and private agencies and institutions that are members of the multidisciplinary investigation team, for purposes of carrying out their official duties, except that only information contained in the records, and not the records or copies of the records, may be provided pursuant to this subparagraph;

(E) The Child and Family Services Agency, for the purposes of carrying out its official duties; and

(F) The Juvenile Abscondence Review Committee for the purposes of examining circumstances and events surrounding any homicide, assault with intent to kill, and assault with a deadly weapon committed in the District by or to a juvenile in abscondence; and

(5) Other persons having a professional interest in the protection, welfare, treatment, and rehabilitation of the respondent or of a member of the respondent's family, or in the work of the Superior Court, if authorized by rule or special order of the court.

(d) The prosecuting attorney inspecting records pursuant to subsection (c)(3)(A) of this section may divulge the contents to the extent required in the prosecution of a criminal case, and the United States Attorney for the District of Columbia and his assistants may inspect a transcript of the testimony of any witness and divulge the contents to the extent required by the prosecution of the witness for perjury, without, wherever possible, naming or otherwise revealing the identity of a child under the jurisdiction of the Family Court.

(e) Notwithstanding subsection (b) of this section, the Family Court, upon application of the Attorney General, may order the release of certain information contained in the case record if:

(1) The respondent has escaped from detention or from the custody of the Department of Youth Rehabilitation Services and is likely to pose a danger or threat of bodily harm to another person;

(2) Release of the information is necessary to protect the public safety and welfare; and

(3) The respondent has been charged with a crime of violence as defined in section 23-1331(4).

(f) Notwithstanding subsections (b) and (c) of this section, the Superior Court may by rule or special order provide that particular items or classes of items in juvenile case records shall not be open to inspection except pursuant to rule or special order; but, in dispositional proceedings after an adjudication, no item considered by the judge (other than identification of the sources of confidential information) shall be withheld from inspection:

(1) In delinquency or need of supervision cases, by the attorney for the child; or

(2) In neglect cases, by the attorney for the child and an attorney for the parent, guardian, or other custodian of the child.

(g) The Superior Court may by rule or special order provide procedures for the inspection or copying of juvenile case records by persons entitled to inspect them. No person receiving any record or information pursuant to this section may publish or use it for any purpose other than that for which it was received without a special order of the court.

(h)(1) Notwithstanding subsection (b) of this section, for every respondent against whom the Office of the Attorney General has filed a petition for the following:

(A) A crime of violence (as defined in section 23-1331(4));

(B) A weapons offense;

(C) Unauthorized use of a vehicle;

(D) Theft in the first degree where the property obtained or used is a motor vehicle (as defined in section 22-3215(a)); or

(E) The Office of the Attorney General has filed 3 or more petitions against the respondent, and the respondent is not detained by the Family Court pursuant to section 16-2313(b)(3), the Family Court shall provide, within 48 hours of the decision not to detain the respondent, the following case record information to the Chief of the Metropolitan Police Department ("Chief"):

(i) Respondent's name and date of birth;

(ii) Last known address of the respondent;

(iii) Last known address of respondent's parents, guardians, caretakers, and custodians;

(iv) Address where the respondent will be placed and the name and address of the person into whose custody the respondent will be placed; and

(v) All terms of the placement or conditions of release.

(2) Notwithstanding subsection (b) of this section, the Family Court shall provide the following case record information to the Chief for all cases in which the respondent is not detained by the Family Court pursuant to section 16-2313(b)(3) and cases in which the respondent is placed on probation pursuant to section 16-2320(c)(3):

(A) Respondent's name and date of birth;

(B) All terms or conditions of any stay-away order; and

(C) All terms or conditions of any curfew order.

(3) The Chief shall utilize information obtained from the Family Court and may disclose such information to law enforcement officers or law enforcement entities only as necessary to preserve public safety or the safety of the respondent. The Chief shall not otherwise disclose this information, except as authorized by this section.

(4) If the Chief discloses information pursuant to paragraph (3) of this subsection, the Chief shall notify the recipient that the information may only be re-disclosed to law enforcement officers and only to the extent necessary to preserve public safety or the safety of the respondent. The Chief shall notify the recipient of the information that any other use or disclosure of the information shall be governed by this section and sections 16-2332 and 16-2333, and that unauthorized re-disclosure may be prosecuted under section 16-2336. Any violation of this paragraph will result in an investigation of the violation by the Inspector General of the District of Columbia.

(5) If the petition filed against the juvenile does not result in disposition, the Family Court, within 48 hours of the entry of the decision by the court to dismiss or close the case, or the withdrawal of the petition by the Office of the Attorney General, shall notify the Chief of the Metropolitan Police Department that the case has not resulted in a disposition. The Chief shall, within 48 hours of the notification, destroy and erase from Metropolitan Police Department files the case record information received from the Family Court pursuant to this subsection and shall notify all parties and agencies to which it transmitted case record information pursuant to paragraph (3) of this subsection that the juvenile's case did not result in a disposition and any information that has been transmitted shall be destroyed and erased.

(i) No person shall disclose, inspect, or use records in violation of this section.

D.C. Official Code § 16-2332. Juvenile social records; confidentiality; inspection and

disclosure.

(a) For the purposes of this section, the term "juvenile social records" means all social records made with respect to a child in any proceedings over which the Family Court has jurisdiction under section 11-1101(13), including preliminary inquiries, predisposition studies, and examination reports.

(b) Except as otherwise provided in this section and in section 16-2333.01, juvenile social records shall be kept confidential and shall not be open to inspection.

(c) Subject to the limitations of subsection (e) of this section, the following persons and entities may inspect juvenile social records:

(1) Courts:

(A) Judges and professional staff of the Superior Court; and

(B) Any court or its probation staff, for purposes of sentencing the child as a defendant in a criminal case;

(2) Family Court case participants:

(A) The Attorney General and his assistants assigned to the Family Court;

(B) The respondent and any attorney for the respondent without regard to the age of the respondent at the time of the inspection and without regard to the existence of a pending Family Court case; and

(C) Public or private agencies or institutions providing supervision or treatment, or having custody of the child, if the supervision, treatment, or custody is under the order of the Family Court;

(3) Other court case participants and law enforcement:

"Law enforcement officers of the United States, the District of Columbia, and other jurisdictions when a custody order has issued for the respondent, except that such records shall be limited to photographs of the child, a physical description of the child, and any addresses where the child may be found, and the law enforcement officer may not be permitted access to any other documents or information contained in the social file;

(4) Government agencies and entities:

(A) Professional employees of the Department of Youth Rehabilitation Services when necessary for the discharge of their official duties;

(B) The Child and Family Services Agency when necessary for the discharge of its official duties;

(C) The Child Fatality Review Committee for the purposes of examining past events and circumstances surrounding deaths of children in the District of Columbia or of children who are either residents or wards of the District of Columbia, or for the discharge of its official duties;

~~(D) Authorized personnel in the Mayor's Family Court Liaison, the Department of Health, the Department of Mental Health, the Child and Family Services Agency, the Department of Human Services, and the District of Columbia Public Schools for the purpose of delivery of services to individuals under the jurisdiction of the Family Court, or their families;~~

(D) Authorized personnel in the Mayor's Family Court Liaison, the Department of Health, the Department of Mental Health Department of Behavioral Health, the Child and Family Services Agency, the Department of Human Services, ~~and the District of~~ Columbia Public Schools the District of Columbia Public Schools, and the Office of the Attorney General for the District of Columbia for the purpose of:

(i) The delivery of services to

(I) Individuals under the jurisdiction of the Family Court, or their families; and

(II) Youth who have been diverted by law enforcement, by the Office of the Attorney General for the District of Columbia, or pursuant to § 16-2305.02; or

(ii) Monitoring recidivism and the efficacy of services provided to:

(I) Individuals under the jurisdiction of the Family Court, or their families; and

(II) Youth who have been diverted by law enforcement, by the Office of the Attorney General for the District of Columbia, or pursuant to § 16-2305.02.

(5) Other persons having a professional interest in the protection, welfare, treatment, and rehabilitation of the respondent or of a member of the respondent's family, or in the work of the Family Court, if authorized by rule or special order of the court.

(d)(1) Except as otherwise provided in this section and in section 16-2333.01, records inspected pursuant to subsection (c) of this section may not be divulged to unauthorized persons.

(2)(A) Notwithstanding paragraph (1) of this subsection, health and human services information contained with juvenile social records may be divulged for the purposes of and in accordance with [Chapter 2A Title 7].

(B) For the purposes of this paragraph, the term "health and human services information" shall have the same meaning as provided in [§ 7-241(3)].

(e) Notwithstanding subsections (b) and (c) of this section, the Superior Court may by rule or special order provide that particular items or classes of items in juvenile social records shall not be open to inspection except pursuant to rule or special order; but, in dispositional proceedings after an adjudication, no item considered by the judge (other than identification of the sources of confidential information) shall be withheld from inspection:

(1) In delinquency or need of supervision cases, by the attorney for the child; or

(2) In neglect cases, by the attorney for the child and an attorney for the parent, guardian, or other custodian of the child.

(f) The Superior Court may by rule or special order provide procedures for the inspection or copying of juvenile social records by persons entitled to inspect them. No person receiving any record or information pursuant to this section may publish or use it for any purpose other than that for which it was received without a special order of the court.

(g)(1) Notwithstanding subsections (b), (c), (d), or (e) of this section, for every respondent committed to the Department of Youth Rehabilitation Services ("Department") pursuant to section 16-2320(c)(2) who has been adjudicated of:

(A) A crime of violence (as defined in section 23-1331(4));

(B) A weapons offense;

(C) Unauthorized use of a vehicle;

(D) Theft in the first degree where property obtained or used is a motor vehicle (as defined in section 22-3215(a)); or

(E) Adjudicated 3 or more times, the Mayor may direct the Director of the Department ("Director") to provide notice to the Chief of the Metropolitan Police Department ("Chief)" of any assignment or placement of the respondent in a Department facility or residential or other placement, including any facility operated by a contractor or agent, as soon as practicable prior to the assignment or placement.

(2) Notwithstanding subsections (b), (c), (d), or (e) of this section, for any

respondent who is detained or committed to the Department, the Director shall provide notice to the Chief of any respondent who has absconded or escaped from any Department facility, or residential or other placement, including any facility or placement operated by an agent or contractor, within one hour of the absconding or escaping.

(3) Notice issued pursuant to this subsection shall include the following information, as applicable:

(A) Respondent's name and date of birth;

(B) Last known address of the respondent;

(C) Last known address of the respondent's parents, guardians, caretakers, and custodians;

(D) Address to which the respondent will be assigned, placed, or released and the name and address of the person into whose custody the respondent will be placed if the respondent is not placed into a Department facility; and

(E) A recent photograph of the respondent, if available.

(4) The Chief shall utilize information obtained from the Director and may disclose such information to law enforcement persons or law enforcement entities only as necessary to preserve public safety or the safety of the respondent. The Chief shall not otherwise disclose this information, except as authorized by this section.

(5) If the Chief discloses information pursuant to paragraph (4) of this subsection, the Chief shall notify the recipient that the information may only be re-disclosed to law enforcement officers and only to the extent necessary to preserve public safety or the safety of the respondent. The Chief shall notify the recipient of the information that any other use or disclosure of the information shall be governed by this section and sections 16-2331 and 16-2333, and that unauthorized re-disclosure may be prosecuted under section 16-2336. Any violation of this paragraph will result in an investigation of the violation by the Inspector General of the District of Columbia.

(6) The Chief may make additional case-specific inquiries to the Mayor based on information disclosed under paragraph (1) of this subsection. The Mayor may direct the Director to provide such additional information, when requested by the Chief, but only as necessary to protect public safety or the safety of the respondent.

(h) No person shall disclose, inspect, or use records in violation of this section.

D.C. Official Code § 16-2333. Police and other law enforcement records.

(a) Except as otherwise provided in this section and in section 16-2333.01, law enforcement records and files concerning a child shall not be open to public inspection nor shall their contents or existence be disclosed to the public unless:

(1) A charge of delinquency is transferred for criminal prosecution under section 16-2307;

(1A) The record pertains to a civil Notice of Violation;

(2) The interest of national security requires; or

(3) The court otherwise orders in the interest of the child.

(b) Inspection of such records and files is permitted by:

(1) Courts:

(A) The Superior Court, having the child currently before it in any proceedings; and

(B) Any court in which respondent is charged or convicted as a respondent in a delinquency matter, or status offense, or as a defendant in a criminal offense, or the court's probation staff, or by officials of rehabilitation or penal institutions and other rehabilitation or penal facilities to which he is committed, or by a parole board in considering his parole or discharge or in exercising supervision over him;

(2) Case participants:

(A) The child and any attorney for the child without regard to the age of the child at the time of the inspection and without regard to the existence of a pending Family Court case;

(B) Parents or guardians of the child and any attorney for them without regard to the age of the child at the time of the inspection and without regard to the existence of a pending Family Court case;

(C) Each eyewitness, victim, or the immediate family members or caretakers of the eyewitness or victim if the eyewitness or victim is a child or is deceased or incapacitated, and their duly authorized attorneys, when the records relate to the incident in which they were an eyewitness or a victim; and

(D) The officers of public and private institutions or agencies to which the child is currently committed, and those professional persons or agencies responsible for the child's supervision after release;

(3) Prosecutors and law enforcement:

(A) Law enforcement officers of the United States, the District of Columbia, and other jurisdictions when necessary for the discharge of their current official duties;

(B) The United States Attorney for the District of Columbia, his assistants, and any other prosecuting attorneys when necessary for the discharge of their official duties;

(4) Government agencies and entities:

(A) Professional employees of the Department of Youth Rehabilitation Services when necessary for the discharge of their official duties;

(B) The Child Fatality Review Committee when necessary for the discharge of its official duties;

~~(C) Authorized personnel in the Mayor's Family Court Liaison, the Department of Health, the Department Mental Health, the Child and Family Services Agency, the Department of Human Services, and the District of Columbia Public Schools for the purpose of delivery of services to individuals under the jurisdiction of the Family Court, or their families;~~ (C) Authorized personnel in the Mayor's Family Court Liaison, the Department of Health, the Department of Behavioral Health, the Child and Family Services Agency, the Department of Human Services, the District of Columbia Public Schools, and the Office of the Attorney General for the District of Columbia for the purpose of:

(i) The delivery of services to:

(I) Individuals under the jurisdiction of the Family Court or their families; or

(II) Youth who have been diverted by law enforcement, by the Office of the Attorney General for the District of Columbia, or pursuant to § 16-2305.02; and

(ii) Monitoring recidivism and the efficacy of services provided to:

(I) Individuals under the jurisdiction of the Family Court; and

(II) Youth who have been diverted by law enforcement, by

the Office of the Attorney General for the District of Columbia, or pursuant to § 16-2305.02;

(D) The Children's Advocacy Center and the public and private agencies and institutions that are members of the multi-disciplinary investigation team, for purposes of carrying out their official duties, except that only information contained in the records, and not the records of copies of the records, may be provided pursuant to this subparagraph; and

(E) The Juvenile Abscondence Review Committee for the purposes of examining circumstances and events surrounding any homicide, assault with intent to kill, and assault with a deadly weapon committed in the District by or to a juvenile in abscondence; and

(5) Any other person, agency, or institution, by order of the court, having a professional interest in the child or in the work of the law enforcement department.

(c) The Family Court, upon application of the Attorney General and notice and opportunity for respondent or his counsel to respond to the application, may order the release of certain information contained in the law enforcement records if:

(1) The respondent has escaped from detention or from the custody of the Department of Youth Rehabilitation Services and is likely to pose a danger or threat of bodily harm to another person;

(2) Release of such information is necessary to protect the public safety and welfare; and

(3) The respondent has been charged with a crime of violence as defined in section 23-1331(4).

(d) Photographs may be displayed to potential witnesses for identification purposes, in accordance with the standards of fairness applicable to adults.

(e)(1) Certain juvenile crime information (but not records) shall not be confidential and shall be disclosable to the public strictly in accordance with the provisions of this subsection.

(2) The public availability of the information regarding a child shall be limited to:

(A) The child's name;

(B) The fact that the child was arrested;

(C) The charges at arrest;

(D) The charges in the petition filed pursuant to section 16-2305;

(E) Whether the petition resulted in an adjudication and the charges for which the child was found involved; and

(F) If the child was found involved, whether at initial disposition the child was placed on probation or committed to the custody of the Department of Youth Rehabilitation Services.

(3) The information shall be available only regarding:

(A) A juvenile who has been adjudicated delinquent of a crime of violence (as defined in section 23-1331(4)), or any felony offense under Chapter 45 of Title 22 (weapons) [§ 22-4501 et seq.] or Chapter 23 of Title 6 (Firearms Control) [Chapter 25 of Title 7, § 7-2501.01 et seq. (2001 Ed.)];

(B) A juvenile who has been adjudicated delinquent 2 or more times of:

(i) A dangerous crime (as defined in section 23-1331(3)) that is not included in subparagraph (A) of this paragraph;

(ii) Unauthorized use of a vehicle;

(iii) Theft in the first degree where the property obtained or used is a motor vehicle (as defined in section 22-3215(a));

(iv) A assault [Assault] (as defined in section 22-404(a)(2)); or

(v) Any combination thereof; and

(C) An adult offender (including a juvenile tried as an adult under this chapter) convicted of a felony or of misdemeanor assault; provided, that no more than 3 years have lapsed between the completion of his or her juvenile sentence and the adult conviction.

(4) This subsection permits the limited disclosure of information contained in records and files otherwise protected from disclosure under § 16-2333, but does not authorize disclosure of the records and files.

(5) This subsection shall apply only to individuals adjudicated after January 1, 2011, regardless of when the criminal offense occurred.

(6) Any law enforcement information shared with the public shall comply with Metropolitan Police Regulations that apply to adult criminal records, including the Duncan Ordinance (Chapter 10 of Title 1 of the District of Columbia Municipal Regulations).".

(f) Notwithstanding the confidentiality requirements of subsection (b) of this section, the Metropolitan Police Department shall make reports available to the public every 6 months of the number of children arrested in the District by the location of the police service area within which the juvenile suspect lives, and giving the location of the police service area within which the crime occurred, the charges, and the date of the crime.

(g) No person shall disclose, inspect, or use records in violation of this section.

D.C. Official Code § 16-2335. Sealing of records.

(a) On motion of a person ~~who has been the subject of a petition~~ who has been taken into custody pursuant to section 16-2309 or has been the subject of a petition filed pursuant to section 16-2305, or on the Division's own motion, the Division shall vacate its order and findings and shall order the sealing of the case and social records referred to in sections 16-2331 and 16-2332 and the law enforcement records and files referred to in section 16-2333, or those of any other agency active in the case if it finds that --

(1)(A) a neglected child has reached his majority; or

(B) two years have elapsed since the final discharge of the person from legal custody or supervision, or since the entry of any other Division order not involving custody or supervision; and

(2) he has not been subsequently convicted of a crime, or adjudicated delinquent or in need of supervision prior to the filing of the motion, and no proceeding is pending seeking such conviction or adjudication.

(b) Reasonable notice of a motion shall be given to --

(1) the person who is the subject of the petition;

(2) the Corporation Counsel;

(3) the authority granting the discharge, if the final discharge was from an institution, parole, or probation; and

(4) the law enforcement department having custody of the files and records specified in section 16-2333.

(c) Upon the entry of the order, the proceedings in the case shall be treated as if they never occurred. All facts relating to the action including arrest, the filing of a petition, and the adjudication, filing, and disposition of the Division shall no longer exist as a matter of law. The Division, the law enforcement department, or any other department or agency that received notice under subsection (b) and was named in the order shall reply, and the person who is the subject

matter of the records may reply, to any inquiry that no record exists with respect to such person.

(d) Inspection of the files and records included in the order may thereafter be permitted by the Division only upon motion by the person who is the subject of such records, and may be made only by those persons named in the motion; but the Division in its discretion may, by special order in an individual case, permit inspection by or release of information in the records to the Child Fatality Review Committee, where necessary for the discharge of its official duties, and persons having a professional interest in the protection, welfare, treatment, and rehabilitation of the person who is the subject of the petition or other members of his family.

(e) Any adjudication of delinquency or need of supervision or conviction of a felony subsequent to sealing shall have the effect of nullifying the vacating and sealing order.

(f) A person who has been the subject of a petition filed under this subchapter shall be notified of his rights under subsection (a) at the time a dispositional order is entered and again at the time of his final discharge from supervision, treatment, or custody.

(g) No person shall disclose, receive, or use records in violation of this section.

(h) Notwithstanding the availability of information pursuant to section 16-2333(e), a juvenile shall not be required to disclose and shall have the right to refuse disclosure of his or her juvenile delinquency history in an application for employment, education, or housing.

D.C. Official Code § 16-2336. Unlawful disclosure of records; penalties.

Whoever willfully discloses, receives, makes use of, or knowingly permits the use of information concerning a child or other person in violation of sections 16-2331 through ~~16-2335~~ 16-2335 and 16-2335.02, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined of not more than the amount set forth in [§ 22-3571.01] or imprisoned not more than ninety days, or both. Violations of this section shall be prosecuted by the Corporation Counsel in the name of the District of Columbia.

Section 103

D.C. Official Code § 23-1322. Detention prior to trial.

(a) The judicial officer shall order the detention of a person charged with an offense for a period of not more than 5 days, excluding Saturdays, Sundays, and holidays, and direct the attorney for the government to notify the appropriate court, probation or parole official, or local or state law enforcement official, if the judicial officer determines that the person charged with an offense:

(1) Was at the time the offense was committed, on:

(A) Release pending trial for a felony or misdemeanor under local, state, or federal law;

(B) Release pending imposition or execution of sentence, appeal of sentence or conviction, or completion of sentence, for any offense under local, state, or federal law; or

(C) Probation, parole or supervised release for an offense under local, state, or federal law; and

(2) May flee or pose a danger to any other person or the community or, when a hearing under § 23-1329(b) is requested, is likely to violate a condition of release. If the official fails or declines to take the person into custody during the 5-day period described in this subsection, the person shall be treated in accordance with other provisions of law governing release

pending trial.

(b)(1) The judicial officer shall hold a hearing to determine whether any condition or combination of conditions set forth in § 23-1321(c) will reasonably assure the appearance of the person as required and the safety of any other person and the community, upon oral motion of the attorney for the government, in a case that involves:

(A) A crime of violence, or a dangerous crime, as these terms are defined in § 23-1331;

(B) An offense under section 502 of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-722);

(C) A serious risk that the person will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate a prospective witness or juror; or

(D) A serious risk that the person will flee.

(2) If, after a hearing pursuant to the provision of subsection (d) of this section, the judicial officer finds by clear and convincing evidence that no condition or combination of conditions will reasonably assure the appearance of the person as required, and the safety of any other person and the community, the judicial officer shall order that the person be detained before trial.

(c) There shall be a rebuttable presumption that no condition or combination of conditions of release will reasonably assure the safety of any other person and the community if the judicial officer finds by probable cause that the person:

(1) Committed a dangerous crime or a crime of violence, as these crimes are defined in § 23-1331, while armed with or having readily available a pistol, firearm, imitation firearm, or other deadly or dangerous weapon;

(2) Has threatened, injured, intimidated, or attempted to threaten, injure, or intimidate a law enforcement officer, an officer of the court, or a prospective witness or juror in any criminal investigation or judicial proceeding;

(3) Committed a dangerous crime or a crime of violence, as these terms are defined in § 23-1331, and has previously been convicted of a dangerous crime or a crime of violence which was committed while on release pending trial for a local, state, or federal offense;

(4) Committed a dangerous crime or a crime of violence while on release pending trial for a local, state, or federal offense;

(5) Committed 2 or more dangerous crimes or crimes of violence in separate incidents that are joined in the case before the judicial officer;

(6) Committed a robbery in which the victim sustained a physical injury;

(7) Violated § 22-4504(a) (carrying a pistol without a license), § 22-4504(a-1) (carrying a rifle or shotgun), § 22-4504(b) (possession of a firearm during the commission of a crime of violence or dangerous crime), or § 22-4503 (unlawful possession of a firearm); or

(8) Violated [subchapter VIII of Chapter 25 of Title 7, § 7-2508.01 et seq.], while on probation, parole, or supervised release for committing a dangerous crime or a crime of violence, as these crimes are defined in § 23-1331, and while armed with or having readily available a firearm, imitation firearm, or other deadly or dangerous weapon as described in § 22-4502(a).

(d)(1) The hearing shall be held immediately upon the person's first appearance before the judicial officer unless that person, or the attorney for the government, seeks a continuance. Except

for good cause, a continuance on motion of the person shall not exceed 5 days, and a continuance on motion of the attorney for the government shall not exceed 3 days. During a continuance, the person shall be detained, and the judicial officer, on motion of the attorney for the government or sua sponte, may order that, while in custody, a person who appears to be an addict receive a medical examination to determine whether the person is an addict, as defined in § 23-1331.

(2) At the hearing, the person has the right to be represented by counsel and, if financially unable to obtain adequate representation, to have counsel appointed.

(3) The person shall be afforded an opportunity to testify. Testimony of the person given during the hearing shall not be admissible on the issue of guilt in any other judicial proceeding, but the testimony shall be admissible in proceedings under §§ 23-1327, 23-1328, and 23-1329, in perjury proceedings, and for the purpose of impeachment in any subsequent proceedings.

(4) The person shall be afforded an opportunity to present witnesses, to cross-examine witnesses who appear at the hearing, and to present information by proffer or otherwise. The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing.

(5) The person shall be detained pending completion of the hearing.

(6) The hearing may be reopened at any time before trial if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue of whether there are conditions of release that will reasonably assure the appearance of the person as required or the safety of any other person or the community.

(7) When a person has been released pursuant to this section and it subsequently appears that the person may be subject to pretrial detention, the attorney for the government may initiate a pretrial detention hearing by ex parte written motion. Upon such motion, the judicial officer may issue a warrant for the arrest of the person and if the person is outside the District of Columbia, the person shall be brought before a judicial officer in the district where the person is arrested and shall then be transferred to the District of Columbia for proceedings in accordance with this section.

(e) The judicial officer shall, in determining whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community, take into account information available concerning:

(1) The nature and circumstances of the offense charged, including whether the offense is a crime of violence or dangerous crime as these terms are defined in § 23-1331, or involves obstruction of justice as defined in § 22-722;

(2) The weight of the evidence against the person;

(3) The history and characteristics of the person, including:

(A) The person's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and

(B) Whether, at the time of the current offense or arrest, the person was on probation, on parole, on supervised release, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under local, state, or federal law; and

(4) The nature and seriousness of the danger to any person or the community that would be posed by the person's release.

(f) In a release order issued under § 23-1321(b) or (c), the judicial officer shall:

(1) Include a written statement that sets forth all the conditions to which the release is subject, in a manner sufficiently clear and specific to serve as a guide for the person's conduct; and

(2) Advise the person of:

(A) The penalties for violating a condition of release, including the penalties for committing an offense while on pretrial release;

(B) The consequences of violating a condition of release, including immediate arrest or issuance of a warrant for the person's arrest; and

(C) The provisions of § 22-722, relating to threats, force, or intimidation of witnesses, jurors, and officers of the court, obstruction of criminal investigations and retaliating against a witness, victim, or an informant.

(g) In a detention order issued under subsection (b) of this section, the judicial officer shall:

(1) Include written findings of fact and a written statement of the reasons for the detention;

(2) Direct that the person be committed to the custody of the Attorney General of the United States for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending ~~appeal;~~ appeal; except that after October 1, 2018, if the person is younger than 18 years of age, direct that the person be transferred to the custody of the Department of Youth Rehabilitation Services, subject to the federal standards under 28 C.F.R. § 115.14.

(3) Direct that the person be afforded reasonable opportunity for private consultation with counsel; and

(4) Direct that, on order of a judicial officer or on request of an attorney for the government, the person in charge of the corrections facility in which the person is confined deliver the person to the United States Marshal or other appropriate person for the purpose of an appearance in connection with a court proceeding.

(h)(1) The case of the person detained pursuant to subsection (b) of this section shall be placed on an expedited calendar and, consistent with the sound administration of justice, the person shall be indicted before the expiration of 90 days, and shall have trial of the case commence before the expiration of 100 days. However, the time within which the person shall be indicted or shall have the trial of the case commence may be extended for one or more additional periods not to exceed 20 days each on the basis of a petition submitted by the attorney for the government and approved by the judicial officer. The additional period or periods of detention may be granted only on the basis of good cause shown, including due diligence and materiality, and shall be granted only for the additional time required to prepare for the expedited indictment and trial of the person. Good cause may include, but is not limited to, the unavailability of an essential witness, the necessity for forensic analysis of evidence, the ability to conduct a joint trial with a co-defendant or co-defendants, severance of co-defendants which permits only one trial to commence within the time period, complex or major investigations, complex or difficult legal issues, scheduling conflicts which arise shortly before the scheduled trial date, the inability to proceed to trial because of action taken by or at the behest of the defendant, an agreement between the government and the defense to dispose of the case by a guilty plea on or after the scheduled trial date, or the breakdown of a plea on or immediately before the trial date, and allowing reasonable time to prepare for an expedited trial after the circumstance giving rise to a tolling or extension of the 100-day period no longer exists. If the time within which the person must be indicted or the trial must commence is tolled or extended, an indictment must be returned at least 10 days before the new trial date.

(2) For the purposes of determining the maximum period of detention under this section, the period shall begin on the latest of:

(A) The date the defendant is first detained under subsection (b) of this section by order of a judicial officer of the District of Columbia after arrest;

(B) The date the defendant is first detained under subsection (b) of this section by order of a judicial officer of the District of Columbia following a re-arrest or order of detention after having been conditionally released under § 23-1321 or after having escaped;

(C) The date on which the trial of a defendant detained under subsection (b) of this section ends in a mistrial;

(D) The date on which an order permitting the withdrawal of a guilty plea becomes final;

(E) The date on which the defendant reasserts his right to an expedited trial following a waiver of that right;

(F) The date on which the defendant, having previously been found incompetent to stand trial, is found competent to stand trial;

(G) The date on which an order granting a motion for a new trial becomes final; or

(H) The date on which the mandate is filed in the Superior Court after a case is reversed on appeal.

(3) After 100 days, as computed under paragraphs (2) and (4) of this section, or such period or periods of detention as extended under paragraph (1) of this section, the defendant shall be treated in accordance with § 23-1321(a) unless the trial is in progress, has been delayed by the timely filing of motions, excluding motions for continuance, or has been delayed at the request of the defendant.

(4) In computing the 100 days, the following periods shall be excluded:

(A) Any period from the filing of the notice of appeal to the issuance of the mandate in an interlocutory appeal;

(B) Any period attributable to any examination to determine the defendant's sanity or lack thereof or his or her mental competency or physical capacity to stand trial;

(C) Any period attributable to the inability of the defendant to participate in his or her defense because of mental incompetency or physical incapacity; and

(D) Any period in which the defendant is otherwise unavailable for trial.

(i) Nothing in this section shall be construed as modifying or limiting the presumption of innocence.

Section 302

D.C. Official Code § 1-301.81. Duties of the Attorney General for the District of Columbia.

(a)(1) The Attorney General for the District of Columbia ("Attorney General") shall have charge and conduct of all law business of the said District and all suits instituted by and against the government thereof, and shall possess all powers afforded the Attorney General by the common and statutory law of the District and shall be responsible for upholding the public interest. The Attorney General shall have the power to control litigation and appeals, as well as the power to intervene in legal proceedings on behalf of this public interest.

(2) The Attorney General shall furnish opinions in writing to the Mayor and the

Council whenever requested to do so. All requests for opinions from agencies subordinate to the Mayor shall be transmitted through the Mayor. The Attorney General shall keep a record of requests, together with the opinions. Those opinions of the Attorney General issued pursuant to Reorganization Order No. 50 shall be compiled and published by the Attorney General on an annual basis.

(3) By October 1, 2018, the Attorney General shall develop a pilot program, in collaboration with community partners, to provide victim-offender mediation as an alternative to the prosecution of juveniles in cases deemed appropriate by the Attorney General; provided, that participation in the mediation pilot program established in this subsection shall be voluntary for both the victim and the offender.

(b) The authority provided under this section shall not be construed to deny or limit the duty and authority of the Attorney General as heretofore authorized, either by statute or under common law.

Section 303

D.C. Official Code § 5-113.01. Records – Required.

(a) The Mayor of the District of Columbia shall cause the Metropolitan Police force to keep the following records:

(1) General complaint files, in which shall be entered every complaint preferred upon personal knowledge of the circumstances thereof, with the name and residence of the complainant;

(2) Records of lost, missing, or stolen property;

(3) A personnel record of each member of the Metropolitan Police force, which shall contain his name and residence; the date and place of his birth; his marital status; the date he became a citizen, if foreign born; his age; his former occupation; and the dates of his appointment and separation from office, together with the cause of the latter;

(4) Arrest books, which shall contain the following information:

(A) Case number, date of arrest, and time of recording arrest in arrest book;

(B) Name, address, date of birth, color, birthplace, occupation, and marital status of person arrested;

(C) Offense with which person arrested was charged and place where person was arrested;

(D) Name and address of complainant;

(E) Name of arresting officer; and

(F) Disposition of case;

(4A) The Metropolitan Police force shall maintain a computerized record of a civil protection order or bench warrant issued as a result of an intrafamily offense; and

(5) Such other records as the Council of the District of Columbia considers necessary for the efficient operation of the Metropolitan Police force.

(b) The Metropolitan Police force shall cooperate with the Criminal Justice Coordinating Council by sharing records to the extent otherwise permissible under the law for the purpose of preparing the report described in § 22-4234(b-3)."

Section 304

D.C. Official Code § 22-4234. Duties.

(a) The Criminal Justice Coordinating Council shall:

(1) Make recommendations concerning the coordination of the activities and the mobilization of the resources of the member agencies in improving public safety in, and the criminal justice system of, the District of Columbia;

(2) Cooperate with and support the member agencies in carrying out the purposes of the CJCC;

(3) Define and analyze issues and procedures in the criminal justice system, identify alternative solutions, and make recommendations for improvements and changes in the programs of the criminal justice system;

(4) Receive information from, and give assistance to, other District of Columbia agencies concerned with, or affected by, issues of public safety and the criminal justice system;

(5) Make recommendations regarding systematic operational and infrastructural matters as are believed necessary to improve public safety in District of Columbia and federal criminal justice agencies;

(6) Advise and work collaboratively with the Office of the Deputy Mayor for Public Safety and Justice, Justice Grants Administration in developing justice planning documents and allocating grant funds;

(7) Select ex-officio members to participate in Criminal Justice Coordinating Council planning sessions and subcommittees as necessary to meet the organization's goals;

(8) Establish measurable goals and objectives for reform initiatives;

(b) The CJCC shall also report, on an annual basis, on the status and progress of the goals and objectives referenced in subsection (a)(8) of this section, including any recommendations made by the CJCC and its subcommittees to the membership of the CJCC, the public, the Mayor, and the Council. The report shall be submitted to the Mayor and the Council within 90 days after the end of each fiscal year and shall be the subject of a public hearing before the Council during the annual budget process. The CJCC's budget and future funding requests shall also be the subject of a hearing before the Council during the annual budget process.

(b-2) By October 1, 2018, and every 2 years thereafter, the CJCC shall conduct a voluntary survey of individuals under the ag of 21 currently committed to the Department of Youth Rehabilitation Services or incarcerated at the Department of Corrections on their perspective on the causes of youth crime and the prevalence of adverse childhood experiences, such as housing such as housing instability, childhood abuse, family instability, substance abuse, mental illness, family criminal involvement, or other factors deemed relevant by the CJCC;

(b-3) On October 1, 2018, and every 2 years thereafter, the CJCC shall submit a report to the Mayor and the Council containing an analysis of the root causes of youth crime and the prevalence of adverse childhood experiences among justice involved youth, such as housing instability, childhood abuse, family instability, substance abuse, mental illness, family criminal involvement, or other factors deemed relevant by the CJCC that incorporates the results of the survey conducted pursuant to subsection (b-2) of this section; and

(c) The CJCC is designated as a criminal justice agency for purposes of transmitting electronically to local, state, and federal agencies criminal-justice-related information, as required by CJCC to perform the duties specified under this section and in accordance with the terms and conditions regarding data sharing approved by the agency that is the source of the information for

transmission.

Section 305

D.C. Official Code § 24-211.02. Powers; promulgation of rules.

(a) Said Department of Corrections under the general direction and supervision of the Mayor of the District of Columbia shall have charge of the management and regulation of the Workhouse at Occoquan in the State of Virginia, the Reformatory at Lorton in the State of Virginia, and the Washington Asylum and Jail, and be responsible for the safekeeping, care, protection, instruction, and discipline of all persons committed to such institutions. The Department of Corrections with the approval of the Council of the District of Columbia shall have power to promulgate rules and regulations for the government of such institutions and to establish and conduct industries, farms, and other activities, to classify the inmates, and to provide for their proper treatment, care, rehabilitation, and reformation.

(a-1)(1) The Department of Corrections shall have charge of the management and operation of the Central Cellblock, located at 300 Indiana Avenue, N.W., Washington, D.C., and shall be responsible for the safekeeping, care, and protection of all persons detained at the Central Cellblock or detained at a medical facility in the District, by the Metropolitan Police Department, before their initial court appearance.

(2) Nothing in this subsection shall be construed as:

(A) Removing any authority from the Metropolitan Police Department to determine where to hold in custody any person arrested and awaiting an initial court appearance;

(B) Granting any arrest powers to any employee of the Department of Corrections performing any duty at the Central Cellblock; or

(C) Limiting any powers or authority of the Metropolitan Police Department or the Department of Corrections.

(b) The Department of Corrections shall:

(1) Provide access to the Central Detention Facility, upon request and appointment, to members of the Corrections Information Council, or their staff, agents, or designees, for the purposes of conducting:

(A) Inspections of all areas accessible to inmates; and

(B) Unmonitored interviews of inmates in areas open to inspection under subparagraph (A) of this paragraph;

(2) Provide to the Council on a quarterly basis all internal reports relating to living conditions in the Central Detention Facility, including inmate grievances, the Crystal report, the monthly report on the Priority One environmental problems and the time to repair, the monthly report of the Environmental Safety Office, the monthly report on temperature control and ventilation, and the monthly report on the jail population that includes the number of people waiting transfer to the federal Bureau of Prisons and the average number of days that inmates waited for transfer;

(3) Initiate and maintain regular afternoon and evening visiting hours at the Central Detention Facility for a minimum of 5 days a week, including Saturdays and Sundays;

(4) Develop and implement a classification system and corresponding housing plan for inmates at the Central Detention Facility~~; and~~;

(5) Return to an inmate, upon the inmate's release from the Central Detention

Facility, any personal identification documents collected from the inmate, including driver's licenses, birth certificates, and Social Security cards.; and

(6) Repealed.

(7) Repealed.

(8) Repealed.

(9) Cooperating with the Criminal Justice Coordinating Council by sharing data and allowing access to individuals under the age of 21 to the extent otherwise permissible under the law for the purpose of preparing the report described in § 22-4234(b-3).

Section 306

D.C. Official Code § 24-403.01. Sentencing, supervised release, and good time credit for felonies committed on or after August 5, 2000.

(a) For any felony committed on or after August 5, 2000, the court shall impose a sentence that:

(1) Reflects the seriousness of the offense and the criminal history of the offender;

(2) Provides for just punishment and affords adequate deterrence to potential criminal conduct of the offender and others; and

(3) Provides the offender with needed educational or vocational training, medical care, and other correctional treatment.

(b)(1) If an offender is sentenced to imprisonment, or to commitment pursuant to § 24-903, under this section, the court shall impose a period of supervision ("supervised release") to follow release from the imprisonment or commitment.

(2) If the court imposes a sentence of more than one year, the court shall impose a term of supervised release of:

(A) Five years, if the maximum term of imprisonment authorized for the offense is 25 years or more; or

(B) Three years, if the maximum term of imprisonment authorized for the offense is more than one year, but less than 25 years.

(3) If the court imposes a sentence of one year or less, the court shall impose a term of supervised release of:

(A) Not more than 5 years, if the maximum term of imprisonment authorized for the offense is 25 years or more; or

(B) Not more than 3 years, if the maximum term of imprisonment authorized for the offense is more than one year, but less than 25 years.

(4) In the case of a person sentenced for an offense for which registration is required by the Chapter 40 of Title 22, the court may, in its discretion, impose a longer term of supervised release than that required or authorized by paragraph (2) or (3) of this subsection, of:

(A) Not more than 10 years; or

(B) Not more than life if the person is required to register for life.

(5) The term of supervised release commences on the day the offender is released from imprisonment, and runs concurrently with any federal, state, or local term of probation, parole, or supervised release for another offense to which the offender is subject or becomes subject during the term of supervised release. A term of supervised release does not run during any period in which the offender is imprisoned in connection with a conviction for a federal, state, or

local crime unless the period of imprisonment is less than 30 days.

(6) Offenders on supervised release shall be subject to the authority of the United States Parole Commission until completion of the term of supervised release. The Parole Commission shall have and exercise the same authority as is vested in the United States District Courts by 18 U.S.C. § 3583(d)-(i), except that:

(A) The procedures followed by the Parole Commission in exercising such authority shall be those set forth in chapter 311 [repealed] of title 18 of the United States Code; and

(B) An extension of a term of supervised release under 18 U.S.C. § 3583(e)(2) may be ordered only by the court upon motion from the Parole Commission.

(7) An offender whose term of supervised release is revoked may be imprisoned for a period of:

(A) Not more than 5 years, if the maximum term of imprisonment authorized for the offense is life or the offense is specifically designated as a Class A felony;

(B) Not more than 3 years, if the maximum term of imprisonment authorized for the offense is 25 years or more, but less than life and the offense is not specifically designated as a Class A felony;

(C) Not more than 2 years, if the maximum term of imprisonment authorized for the offense is 5 years or more, but less than 25 years; or

(D) Not more than 1 year, if the maximum term of imprisonment authorized for the offense is less than 5 years.

(b-1) If the maximum term of imprisonment authorized for an offense is a term of years, the term of imprisonment or commitment imposed by the court shall not exceed the maximum term of imprisonment authorized for the offense less the maximum term of imprisonment authorized upon revocation of supervised release pursuant to subsection (b)(7) of this section. If the maximum term of imprisonment authorized for the offense is up to life or if an offense is specifically designated as a Class A felony, the maximum term of imprisonment authorized upon revocation of supervised release pursuant to subsection (b)(7) shall not be deducted from the maximum term of imprisonment or commitment authorized for such offense.

(b-2)(1) The court may impose a sentence in excess of 60 years for first degree murder or first degree murder while armed, 40 years for second degree murder or second degree murder while armed, or 30 years for armed carjacking, first degree sexual abuse, first degree sexual abuse while armed, first degree child sexual abuse or first degree child sexual abuse while armed, only if:

(A) Thirty-days prior to trial or the entry of a plea of guilty, the prosecutor files an indictment or information with the clerk of the court and a copy of such indictment or information is served on the person or counsel for the person, stating in writing one or more aggravating circumstances to be relied upon; and

(B) One or more aggravating circumstances exist beyond a reasonable doubt.

(2) Aggravating circumstances for first degree murder are set forth in § 22-2104.01. Aggravating circumstances for first degree sexual abuse and first degree child sexual abuse are set forth in § 22-3020. In addition, for all offenses, aggravating circumstances include:

(A) The offense was committed because of the victim's race, color, religion, national origin, sexual orientation, or gender identity or expression (as defined in § 2-1401.02(12A);

(B) The offense was committed because the victim was or had been a witness in any criminal investigation or judicial proceeding or was capable of providing or had provided assistance in any criminal investigation or judicial proceeding;

(C) The offense was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody;

(D) The offense was especially heinous, atrocious, or cruel;

(E) The offense involved a drive-by or random shooting;

(F) The offense was committed after substantial planning;

(G) The victim was less than 12 years old or more than 60 years old or vulnerable because of mental or physical infirmity; or

(H) Except where death or serious bodily injury is an element of the offense, the victim sustained serious bodily injury as a result of the offense.

(3) This section does not limit the imposition of a maximum sentence of up to life imprisonment without possibility of release authorized by § 22-1804a; § 22-2104.01; § 22-2106; and § 22-3020.

~~(c) A sentence under this section of imprisonment, or of commitment pursuant to § 24-903, shall be for a definite term, which shall not exceed the maximum term allowed by law or be less than any minimum term required by law. A person sentenced under this section to imprisonment, or to commitment pursuant to § 24-903, for such a felony shall serve the term of imprisonment or commitment specified in the sentence, less any time credited toward service of the sentence under subsection (d) of this section.~~ (c)(1) Except as provided under paragraph (2) of this subsection, a sentence under this section of imprisonment, or of commitment pursuant to § 24-903 shall be for a definite term, which shall not exceed the maximum term allowed be law or be less than any minimum term required by law.

(2) Notwithstanding any other provision of law, if the person committed the offense while under 18 years of age:

(A) The court may issue a sentence less than the minimum term otherwise required by law; and

(B) The court shall not impose a sentence of life imprisonment without the possibility of parole or release.

(c-1) A person sentenced under this section to imprisonment, or to commitment pursuant to § 24-903 shall serve the term of imprisonment or commitment specified in the sentence, less any time credited toward service of the sentence under subsection (d) of this section and subject to section 3c of this subchapter, if applicable.

(d) A person sentenced to imprisonment, or to commitment pursuant to § 24-903, under this section may receive good time credit toward service of the sentence only as provided in 18 U.S.C. § 3624(b).

(d-1)(1) A person sentenced to imprisonment under this section for a nonviolent offense may receive up to a one-year reduction in the term the person must otherwise serve if the person successfully completes a substance abuse treatment program in accordance with 18 U.S.C. § 3621(e)(2).

(2) For the purposes of this subsection, the term "nonviolent offense" means any crime other than those included within the definition of "crime of violence" in § 23-1331(4).

(e) The sentence imposed under this section on a ~~person convicted of~~ person, who was over the age of 18 at the time of the offense, and was convicted of assault with intent to commit first or second degree sexual abuse or child sexual abuse in violation of § 22-401, or of armed robbery in

violation of § 22-4502, shall be not less than 2 years if the violation occurs after the person has been convicted in the District of Columbia or elsewhere of a crime of violence as defined in § 22-4501, providing for the control of dangerous weapons in the District of Columbia. The sentence imposed under this section on a ~~person convicted of~~ person, who was over the age of 18 at the time of the offense, and was convicted of first or second degree sexual abuse or child sexual abuse in violation of § 22-3002, § 22-3003, or § 22-3008 through § 22-3010, shall not be less than 7 years if the violation occurs after the person has been convicted in the District of Columbia or elsewhere of a crime of violence, as so defined.

(f) The sentence imposed under this section shall not be less than 1 year for a ~~person convicted of~~ person, who was over the age of 18 at the time of the offense, and was convicted of:

(1) Assault with a dangerous weapon on a police officer in violation of § 22-405, occurring after the person has been convicted of a violation of that section or of a felony, either in the District of Columbia or in another jurisdiction;

(2) Illegal possession of a pistol [now "firearm"] in violation of § 22-4503, occurring after the person has been convicted of violating that section; or

(3) Possession of the implements of a crime in violation of § 22-2501, occurring after the person has been convicted of a violation of that section or of a felony, either in the District of Columbia or in another jurisdiction.

(g) In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

Sec 3c. Modification of an imposed term of imprisonment for violations of law committed prior to age 18.

(a) Notwithstanding any other provision of law, the court may reduce a term of imprisonment imposed upon a defendant convicted of an offense committed prior to the defendant's 18th birthday if:

(1) The defendant has served 25 years in prison for an offense that was committed and completed prior to the defendant's 18th birthday; and

(2) The court finds, after considering the factors set forth in subsection (c) of this section, that the defendant is not a danger to the safety of any person or the community and that the interests of justice warrant a sentence modification.

(b)(1) A defendant convicted as an adult of an offense committee prior to his or her 18th birthday may file an application for a sentence modification under this section. The application must be in the form of a motion to reduce the sentence. The application may include affidavits or other written material. The application shall be filed with the sentencing court and a copy shall be served on the United States Attorney.

(2) The court may direct the parties to expand the record by submitting additional written materials related to the motion. The court must hold a hearing on the motion at which the defendant and the defendant's counsel must be given an opportunity to speak on the defendant's behalf. The court may permit the parties to introduce evidence.

(3) The defendant must be present at any hearing conducted under this section unless the defendant waives the right to be present. Any proceeding under this section may occur by video teleconferencing and the requirement of a defendant's presence is satisfied by participation in the video teleconference.

(4) The court shall issue an opinion in writing stating the reasons for granting or

denying the application under this section.

(c) The Court in determining whether to reduce a term of imprisonment pursuant to subsection (a) of this section shall consider:

(1) The defendant's age at the time of the offense;

(2) The nature of the offense and the history and characteristics of the defendant;

(3) Whether the defendant has substantially complied with the rules of the institution to which he or she has been confined and whether the defendant has completed any educational, vocational, or other program, where available;

(4) Any report or recommendation received from the United States Attorney;

(5) Whether the defendant has demonstrated maturity, rehabilitation, and a fitness to reenter society sufficient to justify a sentence reduction;

(6) Any statement provided pursuant to D.C. Official Code § 23-1904 by a victim of the offense for which the defendant is imprisoned, or by a family member of the victim if the victim is deceased;

(7) Any reports of physical, mental, or psychiatric examinations of the defendant conducted by licensed health care professionals;

(8) The defendant's family and community circumstances at the time of the offense, including any history of abuse, trauma, or involvement in the child welfare system;

(9) The extent of the defendant's role in the offense and whether and to what extent an adult was involved in the offense;

(10) The diminished culpability of juveniles as compared to that of adults, and the hallmark features of youth, including immaturity, impetuosity, and failure to appreciate risks and consequences, which counsel against sentencing them to a lifetime in prison; and

(11) Any other information the court deems relevant to its decision.

(d) If the court denies the defendant's 1st application under this section, a court shall entertain a 2nd application pursuant to this section no sooner than 5 years after the date that the order on the initial application becomes final. If a sentence has not been reduced after a 2nd application, a court shall entertain a 3rd and final application pursuant to this section no sooner than 5 years following the date that the order on the 2nd application becomes final. No court shall entertain a 4th or successive application pursuant to this section.

(e) Any defendant whose sentence is reduced pursuant to this section shall be ordered to serve a period of supervised release pursuant to section 3a.

Section 402

D.C. Official Code § 2-1515.01. Definitions.

For the purposes of this subchapter, the term:

(1) "Aftercare services" means programs and services designed to provide care, supervision, and control over children released from facilities.

(1A) "Behavioral health" means a person's overall social, emotional, and psychological well-being and development.

(1B) "Behavioral health assessment" means a more thorough and comprehensive examination by a mental health professional of all behavioral health issues and needs identified

during an initial behavioral health screening by which the mental health professional shall identify the type and extent of the behavioral health problem and make recommendations for treatment interventions.

(1C) "Behavioral health screening" means a brief process designed to identify youth who are at risk of having behavioral health disorders that warrant immediate attention, or intervention, or to identify the need for further assessment with a comprehensive examination.

(2) "Committed" means the removal of a youth from his or her home as a result of an order of adjudication or an order of disposition and placement in the care and custody of the Department of Youth Rehabilitation Services.

(2A) "Community placement agreement" means an agreement between the youth and the Department of Youth Rehabilitation Services that the youth and his or her guardian will agree to certain rules in exchange for being released to the community.

(3) "Contracted provider" means any agency, organization, corporation, association, partnership, or individual, either for profit or not for profit, who agrees in writing to provide specific services or organizational supports to youth in the Department's care and custody.

(4) "Conviction" means a judicial finding, jury verdict, or final administrative order, including a finding of guilt, a plea of nolo contendere, or a plea of guilty to a criminal charge enumerated in § 2-1515.05(g), or a finding that a child who is the subject of a report of child abuse has been abused by the employee or prospective employee.

(5)(A) "Custody" means the legal status created by a Family Court order which vests in the Department the responsibility for the custody of a minor, including:

(i) Physical custody and the determination of where and with whom the minor shall live;

(ii) The right and duty to protect, train, and discipline the minor; and

(iii) The responsibility to provide the minor with food, shelter, education, and ordinary medical care.

(B) A Family Court order of "legal custody" is subordinate to the rights and responsibilities of the guardian of the person of the minor and any residual parental rights and responsibilities.

(6) "Department" means the Department of Youth Rehabilitation Services.

(7) "Detained" means the temporary, secure custody of a child in facilities designated by the Family Court and placed in the care of the Department, pending a final disposition of a petition and following a hearing in accordance with § 16-2312.

(8) "Facilities" means any youth residential facility, group home, foster home, shelter, secure residential or institutional placement owned, operated, or under contract with the Department, excluding residential treatment facilities and accredited hospitals.

(9) "Family Court" means the Family Court of the Superior Court of the District of Columbia.

(10) "Person in Need of Supervision" or "PINS" means a "child in need of supervision" as that term is defined by § 16-2301(8).

(11) "Rehabilitative services" means services designed to assist youth in acquiring, retaining, and improving their socialization, behavioral, and generic competency skills necessary to reintegrate into their home and community-based settings.

(12) "Youth" means a "child" as that term is defined by ~~§ 16-2301(3)~~ § 16-2301(3) or other minor in the custody of the Department. The terms "juvenile," "child," and "resident" appearing in this subchapter are used interchangeably.

(13) "Youth residential facility" means a residential placement providing adult supervision and care for one or more children who are not related by blood, marriage, guardianship, or adoption (including both final and non-final adoptive placements) to any of the facility's adult caregivers and who were found to be in need of a specialized living arrangement as the result of a detention or shelter care hearing held pursuant to § 16-2312 or a dispositional hearing held pursuant to § 16-2317.

D.C. Official Code § 2-1515.04. Duties.

The primary duties of the offices of the Department are to plan, program, operate, manage, control, and maintain a juvenile justice system of care, rehabilitative service delivery, and security that meets the treatment needs of youth within the juvenile justice system and that is in accordance with national juvenile justice industry standards and best practices. These duties include:

(1) Providing services for committed and detained youth and PINS that balance the need for rehabilitation and holding youth accountable for their actions in the context of public safety;

(2) Facilitating and enhancing intra-District coordination of services and supports for youth in the juvenile justice system;

(3) Establishing and adopting best practices standards for the provision of residential, restorative, and rehabilitative services to youth in the juvenile justice system consistent with the standards of the American Correctional Association or those of another nationally accepted accrediting body;

(4) Employing a cadre of juvenile justice professionals who are highly skilled and experienced with the principles, goals, and the latest advancements of juvenile rehabilitation and treatment provision;

(5) Establishing through contracts, provider agreements, human care agreements, grants, memoranda of agreement or understanding, or other binding agreements a system of secure and community-based facilities and rehabilitative services with governmental bodies, public and private agencies, institutions, and organizations, for youth that will provide intervention, individualized assessments, continuum of services, safety, and security;

(6) Establishing a system that constantly reviews a youth's individual strengths, needs, and rehabilitative progress and ensures placement within a continuum of least restrictive settings within secure facilities and the community;

(7) Assessing the risks and needs of youth, and determining and providing the services needed for treatment for substance abuse and other services;

(8) Developing and maintaining a system with other governmental and private agencies to identify, locate, and retrieve youth who are under the care, custody, or supervision of the Department, who have absconded from an assigned secure governmental facility, or community shelter home, group home, residential facility, or foster care placement;

(9) Developing and maintaining state-of-the-art systems to monitor accountability and to enhance performance for all Department programs, services, and facilities;

(10) Developing and maintaining an ongoing training program for employees that ensures continuous development of expertise in juvenile justice service delivery;

(11) Taking a leadership role in the provision of training and technical assistance to non-governmental juvenile justice service providers that fosters the development of high-quality, comprehensive, cost-effective, and culturally competent delinquency prevention and

juvenile rehabilitative services for the youth and their families;

(12) Developing and maintaining a capital improvement, licensing, and regulating program that ensures governmental and private institutions maintain up-to-date residential facilities, group homes, and shelter facilities to serve the safety, the security, and the rehabilitative needs of youth in the juvenile justice system;

(13) Enforcing all laws, rules, regulations, court orders, policies, and procedures necessary and appropriate to accomplish the duties of the Department; ~~and~~

(14) Conducting a behavioral health screening and assessment as required in § 2-1215.04a~~.~~;

(15) Within 180 days of the effective date of the Comprehensive Youth Justice Amendment Act of 2016, as approved by the Committee on the Judiciary on October 5, 2016 (Committee print of Bill 21-0683), developing a manual for families of juveniles residing in secure juvenile facilities that includes, at a minimum, information on the operation of the institution or facility as it relates to families of juveniles, information on government and community resources available for families of juveniles, and information and resources available for juveniles after leaving confinement;

(16) Evaluating the effectiveness of rehabilitative services by collecting any available information from other District agencies on the education, employment, and criminal justice, or other outcomes for persons who are either currently committed to the Department or who were committed to the Department in the previous 3 years; and

(17) Cooperating with the Criminal Justice Coordinating Council by sharing data and allowing access to individuals under the age of 21 to the extent otherwise permissible under the law for the purpose of preparing the report described in § 22-4234(b-3).

Sec. 104b. Data Collection.

(a) The Department shall request any available records on the education, employment, criminal justice, or other outcomes of persons who are either currently committed to the Department or who were committed to the Department in the previous 3 years from the following agencies:

(1) Office of the State Superintendent of Education;
(2) Department of Health;
(3) Department of Behavioral Health;
(4) Child and Family Services Agency;
(5) Department of Human Services;
(6) District of Columbia Public Schools; and
(7) Office of the Attorney General.

(b) All records collected by the Department pursuant to this section shall be kept privileged and confidential pursuant to section 106.

Section 501

D.C. Official Code § 13-336. Service by publication on nonresidents, absent defendants, and unknown heirs or devisees

~~(a) In actions specified by subsection (b) of this section, publication may be substituted for~~

~~personal service of process upon a defendant who cannot be found and who is shown by affidavit to be a nonresident, or to have been absent from the District for at least six months, or against the unknown heirs or devisees of deceased persons.~~

(a) In actions specified by subsection (b) of this section, publication may be substituted for personal service of process:

(1) Upon a defendant who cannot be found and who is shown by affidavit to be a nonresident or to have been absent from the District for at least six months;

(2) Upon a defendant who cannot be found after diligent efforts or who by concealment seeks to avoid service of process; or

(3) Against the unknown heirs or devisees of deceased persons.

(b) This section applies only to:

(1) actions for partition;

(2) actions for divorce or annulment;

(3) actions for child custody under D.C. Official Code, Title 16, Chapter 45 [repealed];

(4) actions by attachment;

(5) actions for foreclosure of mortgages and deeds of trust;

(6) actions for the establishment of title to real estate by possession;

(7) actions for the enforcement of mechanics' liens, and other liens against real or personal property within the District; and

(8) actions that have for their immediate object the enforcement or establishment of any lawful right, claim, or demand to or against any real or personal property within the jurisdiction of the court.

D.C. Official Code § 13-340. Manner of publication; mailing of copy; default; appointment and compensation of guardian and attorney.

(a) An order of publication shall be published at least once a week for three successive weeks, or oftener, or for such further time as the court orders. In ~~actions for divorce~~ child custody proceedings, as defined in § 16-4601.01(4), or actions for divorce in which service by publication is authorized under this chapter, and satisfactory evidence is presented to the court that the plaintiff is unable to pay the cost of publishing an advertisement pursuant to D.C. Official Code sec. 13-340, without substantial hardship to himself or herself, or to his or her family, the court may direct that such publication may be made by posting the order of publication defined in D.C. Official Code sec. 13-339, for a period of twenty-one calendar days, in the Clerk's Office of the Family Division of the Superior Court of the District of Columbia.

(b) An order, judgment or decree may not be entered against an absent or nonresident defendant upon proof of notice by publication, unless the plaintiff, his agent, or attorney files in the action an affidavit showing that at least twenty days before applying for the order, judgment or decree he mailed, postpaid, a copy of the advertisement or the order of the publication posted pursuant to subsection (a) of this section, directed to the party therein ordered to appear, at his last known place of residence, or that after diligent effort he has been unable to ascertain the last place of residence of the party.

(c) On failure of the defendant to appear in obedience to the notice within the time stated therein, a judgment or decree by default may be entered.

(d) If the absent or nonresident defendant is an infant, the provisions of the rules of court

concerning guardians ad litem and default judgments shall apply, and the court may assign counsel to represent the infant in the manner provided by subsection (a) of section 13-332.

(e) If the absent or nonresident defendant is non compos mentis, the provisions of the rules of court concerning guardians ad litem and default judgments shall apply, and the court shall assign an attorney to represent the defendant, whose compensation shall be paid by the plaintiff, or out of the estate of the defendant, at the discretion of the court.

Section 601

~~**D.C. Official Code § 22-3226.14. Fraud Prevention Fund.**~~

~~(a) There is established a Fraud Prevention Fund ("Fund"). This Fund shall be nonlapsing. Monies in the Fund shall not be commingled with the General Fund, nor shall the operation of the Fund impose a burden or charge on the General Fund.~~

~~(b) Monies in the Fund shall consist of fines paid pursuant to this subchapter.~~

~~(c) Monies from this fund may be used for the purposes of educating the public regarding fraud and crime prevention, supporting the task force to combat fraud, and enforcing this subchapter.~~

~~(d) The District of Columbia Auditor shall perform an annual audit of the Fraud Prevention Fund.~~

ATTACHMENT H

Committee Print
Committee on the Judiciary
B21-0683
October 5, 2016

A BILL

B21-0683

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Title 16 of the District of Columbia Code to strengthen the presumption against pre-disposition detention of a child, to reduce the number of unnecessary arrests of children, to ban the secure detention of status offenders, to transfer Title 16 juveniles to the custody of the Department of Youth Rehabilitation Services ("DYRS"), to end the commitment to DYRS of children under the age of 10, to terminate the commitment of status offenders on their 18th birthday, to allow the sharing of juvenile information between agencies for the purpose of providing services and evaluating the efficacy of diversion programs, and to authorize the sealing of juvenile arrest records; to amend Title 23 of the District of Columbia code to transfer Title 16 juveniles to DYRS custody; to restrict the use of room confinement of juveniles, to ban the use of disciplinary segregation of juveniles, to remove juveniles from adult correctional facilities, and to end the detention of Title 16 youth in adult facilities; to amend the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010 to require the establishment of a victim-offender mediation program; to amend the Revised Statutes of the District of Columbia to require the Metropolitan Police Department to cooperate with the CJCC in its review of the root causes of juvenile delinquency; to amend the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001 to require the Criminal Justice Coordinating Council ("CJCC") to conduct an analysis of the root causes of juvenile delinquency; to amend An Act To create a Department of Corrections in the District of Columbia to require the Department of Corrections to cooperate with the CJCC in its review of the root causes of juvenile delinquency; to amend An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, to eliminate mandatory minimums for juveniles charged as adults, to ban the use of juvenile life without parole, and to allow for sentence review for individuals who have served 25 or more years in prison for crimes committed as juveniles; to amend the Department of Youth Rehabilitation Services Establishment Act of 2016 to better inform the families of committed juveniles about their commitment and the resources available to them, to require DYRS to cooperate with the CJCC in its review of the root causes of juvenile delinquency, and to require the agency to collect information regarding the effectiveness of its rehabilitation programs from other agencies; to amend Chapter 3 of Title 13 of the District of Columbia Code to allow for constructive notice when a defendant cannot be found after diligent efforts or who by concealment seeks to avoid the

service of process and to reduce the cost of providing notice in child custody cases; and to amend the District of Columbia Theft and White Collar Crimes Act of 1982 to repeal the Fraud Prevention Fund authorization.

TABLE OF CONTENTS

TITLE I. YOUTH SERVICES AND REHABILITATION ENHANCEMENT....2
TITLE II. IMPROVING CONDITIONS OF CONFINEMENT....9
Sec. 201. Short Title....9
Sec. 202. Definitions....9
Sec. 203. Limitations on the Use of Room Confinement....10
Sec. 204. Age Appropriate Housing for Youth....13
TITLE III. INCARCERATION REDUCTION....14
TITLE IV. YOUTH REHABILITATION ACCOUNTABILITY....19
TITLE V. CONSTRUCTIVE NOTICE....22
TITLE VI. FRAUD PREVENTION FUND REPEAL....22
TITLE VII. FISCAL IMPACT; EFFECTIVE DATE....22
Sec. 701. Applicability....22
Sec. 702. Fiscal Impact Statement....23
Sec. 703. Effective Date....23

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Comprehensive Youth Justice Amendment Act of 2016".

TITLE I. YOUTH SERVICES AND REHABILTATION ENHANCEMENT.

Sec. 101. Short title.

This title may be cited as the "Strengthening Youth Services and Rehabilitation Amendment Act of 2016".

Sec. 102. Title 16 of the District of Columbia Official Code is amended as follows:

(a) Section 16-1031 is amended by adding a new subsection (c) to read as follows:

"(c)(1) Notwithstanding subsections (a) and (b) of this section, a law enforcement officer shall not be required to arrest a person who is under the age of 18 when there is probable cause to believe that the person has committed an intrafamily offense that does not constitute intimate partner violence.

(2) If a person is not arrested under paragraph (1) of this section, the person shall be diverted to a program that provides behavioral health and community support services.".

(b) Section 16-2301 is amended by adding a new paragraph (46) to read as follows:

"(46) The term "penal institution" shall have the same meaning as provided in § 22-2603.01(6)."

(c) Section 16-2310 is amended as follows:

(1) Subsection (a) is amended as follows:

(A) The lead-in language is amended by striking the phrase "or in need of supervision".

(B) Paragraph (1) is amended to read as follows:

"(1) to protect the person or property of others from significant harm, or".

(d) Section 16-2312(a) is amended as follows:

(1) Paragraph (2) is amended by striking the phrase "or a child in need of supervision".

(2) A new paragraph (3) is amended to read as follows:

"(3) When a child is not released as provided in § 16-2311 and the child is alleged to be a child in need of supervision:

(A) A shelter care hearing shall be commenced not later than 72 hours (excluding Sundays) after the child has been taken into custody; and

(B) A petition shall be filed at or prior to the shelter care hearing."

(e) Section 16-2313 is amended as follows:

(1) Subsection (a) is amended by striking the phrase "to be neglected" wherever it appears and inserting the phrase "to be neglected or in need of supervision" in its place.

(2) Subsection (b) is amended as follows:

(A) Strike the phrase "is alleged to be in need of supervision or (except as provided in subsection (d) or (e))".

(B) Paragraph (3) is amended by striking the phrase "or children alleged to be in need of supervision".

(3) Subsection (d) is amended as follows:

(A) The existing text is designated as paragraph (1).

(B) The newly designated paragraph (1) is amended as follows:

(i) Strike the phrase "Except as provided in subsection (e), no" and insert the phrase "No" in its place.

(ii) Strike the phrase "subsection (b)(3)" and insert the phrase "subsection (b)(3); provided, that beginning October 1, 2018, no person under 18 years of age may be held in the custody of the Department of Corrections.

(C) A new paragraph (2) is added to read as follows:

"(2) All persons under the age of 18 that are in the custody of the Department of Corrections must be transferred to the custody of the Department of Youth Rehabilitation Services before October 1, 2018."

(D) A new paragraph (3) is added to read as follows:

"(3) After October 1, 2018, the Department of Corrections shall immediately inform the Superior Court if a person under the age of 18 is transferred to the Department of Corrections and transfer the individual to the Department of Youth Rehabilitation Services.".

(4) Subsection (e) is repealed.

(f) Section 16-2320 is amended as follows:

(1) Subsection (c)(2) is amended by striking the phrase "delinquent children." and inserting the phrase "delinquent children; provided, that legal custody shall not be transferred to a public agency for the care of delinquent children when the child in question is less than 10 years of age." in its place.

(2) Subsection (d) is amended to read as follows:

"(d)(1) No child found in need of supervision, unless also found delinquent, shall be committed to or placed in a secure juvenile residential facility, as defined in § 22-2603.01(7), or a secure residential treatment facility for delinquent juveniles.

"(2) Except as provided in paragraph (1) of this subsection, a child found in need of supervision shall be released to the child's parent, guardian, or custodian; provided, that such child may be committed to or placed in a foster home, group home, youth shelter, or other appropriate home for children in need of supervision if the return of the child will result in placement in, or return to, an abusive situation, or the child's parent, guardian, or custodian is unwilling or unable to care for or supervise the child. If the return of the child will result in placement in, or return to, an abusive situation, or if the child's parent, guardian, or custodian is unwilling or unable to care for or supervise the child, the Child and Family Services Agency shall open a neglect investigation.".

(g) Section 16-2322 is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (4) is amended as follows:

(i) Strike the phrase "Subject to subsection (f) of this section, a" and insert the word "A" in its place.

(ii) Strike the phrase "or in need of supervision".

(B) A new paragraph (5) is added to read as follows:

"(5) Subject to subsection (f) of this section, a dispositional order vesting legal custody of a child adjudicated in need of supervision in a department, agency, or institution shall remain in force for an indeterminate period not to exceed the youth's 18th birthday. Unless the order sets a minimum period for commitment of the child, or specifies that release is permitted only by order of the Division, the department, agency, or institution may release the child at any time that it appears the purpose of the disposition order has been achieved."

(2) Subsection (f) is amended as follows:

(A) Strike the word "he" and insert the phrase "the child" in its place.

(B) Strike the phrase "age." and insert the phrase "age, except that orders under this subchapter in force with respect to a child adjudicated in need of supervision, but not delinquent, terminate when the child reaches 18 years of age." in its place.

(h) Section 16-2331(c)(4)(B) is amended to read as follows:

"(B) Authorized personnel in the Mayor's Family Court Liaison, the Department of Health, the Department of Behavioral Health, the Child and Family Services Agency, the Department of Human Services, the District of Columbia Public Schools, and the Office of the Attorney General for the District of Columbia for the purpose of:

"(i) The delivery of services to:

"(I) Individuals under the jurisdiction of the Family Court, or their families; and

"(II) Youth who have been diverted by law enforcement, by the Office of the Attorney General for the District of Columbia, or pursuant to § 16-2305.02; or

"(ii) Monitoring recidivism and the efficacy of services provided to:

"(I) Individuals under the jurisdiction of the Family Court; and

"(II) Youth who have been diverted by law enforcement, by the Office of the Attorney General for the District of Columbia, or pursuant to § 16-2305.02;".

(i) Section 16-2332(c)(4)(D) is amended to read as follows:

"(D) Authorized personnel in the Mayor's Family Court Liaison, the Department of Health, the Department of Behavioral Health, the Child and Family Services Agency, the Department of Human Services, the District of Columbia Public Schools, and the Office of the Attorney General for the District of Columbia for the purpose of:

"(i) The delivery of services to:

"(I) Individuals under the jurisdiction of the Family Court, or their families; and

"(II) Youth who have been diverted by law enforcement, by the Office of the Attorney General for the District of Columbia, or pursuant to § 16-2305.02; or

"(ii) Monitoring recidivism and the efficacy of services provided to:

"(I) Individuals under the jurisdiction of the Family Court; and

"(II) Youth who have been diverted by law enforcement, by the Office of the Attorney General for the District of Columbia, or pursuant to § 16-2305.02;".

(j) Section 16-2333(b)(4)(C) is amended to read as follows:

"(C) Authorized personnel in the Mayor's Family Court Liaison, the Department of Health, the Department of Behavioral Health, the Child and Family Services Agency, the Department of Human Services, the District of Columbia Public Schools, and the Office of the Attorney General for the District of Columbia for the purpose of:

"(i) The delivery of services to:

"(I) Individuals under the jurisdiction of the Family Court or their families; or

"(II) Youth who have been diverted by law enforcement, by the Office of the Attorney General for the District of Columbia, or pursuant to § 16-2305.02; and

"(ii) Monitoring recidivism and the efficacy of services provided to:

"(I) Individuals under the jurisdiction of the Family Court; and

"(II) Youth who have been diverted by law enforcement, by the Office of the Attorney General for the District of Columbia, or pursuant to § 16-2305.02;".

(k) Section 16-2335(a) is amended by striking the phrase "who has been the subject of a petition" and inserting the phrase "who has been taken into custody pursuant to section 16-2309 or has been the subject of a petition" in its place.

(l) Section 16-2336 is amended by striking the phrase "16-2335" and inserting the phrase "16-2335 and 16-2335.02" in its place.

Sec. 103. Section 23-1322(g)(2) of the District of Columbia Official Code is amended by striking the phrase "appeal;" and inserting the phrase "appeal; provided, that after October 1, 2018, if the person is younger than 18 years of age, direct that the person be transferred to the custody of the Department of Youth Rehabilitation Services, subject to the federal standards under 28 C.F.R. § 115.14.".

TITLE II. IMPROVING CONDITIONS OF CONFINEMENT.

Sec. 201. Short Title.

This title may be cited as the "Improving the Conditions of Confinement of Juveniles Act of 2016".

Sec. 202. Definitions.

For the purposes of this title, the term:

(1) "Juvenile" means any individual under 18 years of age and any child, as defined in D.C. Official Code § 16-2301(3).

(2) "Penal institution" shall have the same meaning as provided in section 2(6) of An Act To prohibit the introduction of contraband into the District of Columbia penal institutions, approved December 15, 1941 (55 Stat. 800; D.C. Official Code § 22-2603.01(6)).

(3) "Room confinement" means the involuntary restriction of a juvenile alone, other than during normal sleeping hours or facility-wide lockdowns, in a cell, room, or other area.

(4) "Secure juvenile facility" means a secure juvenile residential facility, as defined in section 2(7) of An Act To prohibit the introduction of contraband into the District of

Columbia penal institutions, approved December 15, 1941 (55 Stat. 800; D.C. Official Code § 22-2603.01(7)), or a secure residential treatment facility for juveniles that is owned, operated or under the control of the Department of Youth Rehabilitation Services.

Sec. 203. Limitations on the use of room confinement.

(a) Penal institutions and secure juvenile facilities shall not use room confinement on a juvenile for the purposes of discipline, punishment, administrative convenience, retaliation, or staffing shortages.

(b)(1) Except as provided in subsection (c) of this section, a penal institution or secure juvenile facility may use room confinement on a juvenile as a temporary response to behavior that threatens:

(A) Imminent harm to the juvenile or others; or

(B) Imminent danger to the safe or secure operation of the penal institution or secure juvenile facility.

(2) A penal institution or secure juvenile facility may use room confinement pursuant to paragraph (1) of this section if there is no other reasonable means to eliminate the condition; provided, that:

(A) Room confinement is used only to the extent necessary to eliminate the condition identified;

(B) Facility staff promptly notifies the juvenile of the specific conditions that resulted in the use of room confinement;

(C) Room confinement takes place under the least restrictive conditions practicable and consistent with the individualized rationale for placement; and

(D) Facility staff develops a plan that will allow the youth to leave room confinement and return to the general population as soon as possible.

(c) Facility staff at a penal institution or secure juvenile facility may grant a juvenile's request for room confinement; provided, that the juvenile is free at any time to revoke his or her request for confinement and be immediately returned to general population.

(d) Except for room confinement occurring under subsection (c) of this section, a health or mental health professional shall conduct a mental health screening on a juvenile placed in room confinement within 1 hour after placement. After a screening, the penal institution or secure juvenile facility shall provide mental health services to the juvenile if necessary.

(e) Except for room confinement occurring under subsection (c) of this section, room confinement shall be used for the briefest period of time possible and not for a time to exceed 6 hours. After 6 hours, the youth shall be returned to the general population, transported to a mental health facility upon the recommendation of a mental health professional, transferred to the medical unit in the facility, or provided special individualized programming that may include:

(1) Development of an individualized plan to improve the juvenile's behavior, created in consultation with the juvenile, mental health or health staff, and the juvenile's family members that identifies the causes and purposes of the negative behavior as well as concrete goals that the juvenile understands and that he or she can work toward to be removed from special programming.

(2) In-person supervision by and interaction with staff members;

(3) In-person provision of educational services;

(4) Involvement of the juvenile in other aspects of the facility's programming, unless such involvement threatens the safety of the juvenile or staff or the security of the facility; and

(5) Daily review with the juvenile of his or her progress toward the goals outlined in his or her plan.

(f) For each use of room confinement, facility staff shall document the following, if applicable:

(1) The name of the juvenile;

(2) The date and time the juvenile was placed in room confinement;

(3) The name and position of the person authorizing placement of the juvenile in room confinement;

(4) The staff involved in the conditions leading to the use of room confinement;

(5) The date and time the juvenile was released from room confinement;

(6) A description of the conditions leading to the use of room confinement or if room confinement was upon request by the juvenile;

(7) The alternative actions to room confinement that were attempted and found unsuccessful or the reason that alternatives were not possible;

(8) Any incident reports describing the condition that led to the period of room confinement;

(9) Any referrals and contacts with qualified medical and mental health professionals, including the date, time, and person contacted.

(g) On March 1, 2018, and annually thereafter, the Department of Youth Rehabilitation Services and the Department of Corrections shall submit a report to the Mayor and the Council

303 that includes steps each agency has taken to reduce the unnecessary use of room confinement for
304 juveniles and a summary of any information collected pursuant to subsection (e) of this section,
305 including, for each penal institution or secure juvenile facility:
306 (1) The total number of incidents in which room confinement was utilized in the
307 prior year;
308 (2) The average length of time juveniles spent in room confinements in the prior
309 year;
310 (3) The longest period of time that any juvenile was in room confinement; and
311 (4) The greatest number of times that any juvenile was in room confinement.
312 Sec. 204. Age appropriate housing for youth.
313 (a) On October 1, 2017, and on a quarterly basis thereafter, the Mayor shall provide a
314 report to the Council that includes:
315 (1) The greatest number of juveniles housed in the Correctional Treatment
316 Facility or the Central Detention Facility at any one time during the preceding quarter;
317 (2) The lowest number of unused beds for juveniles at secure juvenile facilities at
318 any one time during the preceding quarter; and
319 (3) The number of consecutive quarters that the lowest number of unused beds at
320 secure juvenile facilities, as determined in paragraph (2) of this subsection, has exceeded the
321 greatest number of juveniles housed in the Correctional Treatment Facility or the Central
322 Detention Facility, as determined in paragraph (1) of this subsection, if any.
323 (b) All juveniles housed at the Correctional Treatment Facility or the Central Detention
324 Facility shall be transferred to available space in secure juvenile facilities within 6 months after a

determination that there have been 4 consecutive quarters of excess capacity, as determined in subsection (a)(3) of this section.

TITLE III. INCARCERATION REDUCTION.

Sec. 301. Short Title.

This title may be cited as the "Incarceration Reduction Amendment Act of 2016".

Sec. 302. Section 101(a) of the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010, effective May 27, 2010 (D.C. Law 18-160; D.C. Official Code § 1-301.81(a)), is amended as follows:

(a) A new paragraph (3) is added to read as follows:

"(3) By October 1, 2018, the Attorney General shall develop a pilot program, in collaboration with community partners, to provide victim-offender mediation as an alternative to the prosecution of juveniles in cases deemed appropriate by the Attorney General; provided, that participation in the mediation pilot program established pursuant to this paragraph shall be voluntary for both the victim and the offender.".

Sec. 303. Section 386 of the Revised Statutes of the District of Columbia (D.C. Official Code § 5-113.01), is amended as follows:

(a) Designate the existing text as subsection (a).

(b) A new subsection (b) is added to read as follows:

"(b) The Metropolitan Police force shall cooperate with the Criminal Justice Coordinating Council by sharing records to the extent otherwise permissible under the law for the purpose of preparing the report described in section 1505(b-3) of the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 22-4234(b-3))."

Sec. 304. Section 1505 of the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 22-4234), is amended as follows:

(a) New subsections (b-2) and (b-3) are added to read as follows:

"(b-2) By October 1, 2018, and every 2 years thereafter, the CJCC shall conduct a voluntary survey of individuals under the ag of 21 currently committed to the Department of Youth Rehabilitation Services or incarcerated at the Department of Corrections on their perspective on the causes of youth crime and the prevalence of adverse childhood experiences, such as housing such as housing instability, childhood abuse, family instability, substance abuse, mental illness, family criminal involvement, or other factors deemed relevant by the CJCC;

"(b-3) On October 1, 2018, and every 2 years thereafter, the CJCC shall submit a report to the Mayor and the Council containing an analysis of the root causes of youth crime and the prevalence of adverse childhood experiences among justice involved youth, such as housing instability, childhood abuse, family instability, substance abuse, mental illness, family criminal involvement, or other factors deemed relevant by the CJCC that incorporates the results of the survey conducted pursuant to subsection (b-2) of this section; and".

Sec. 305. Section 2(b) of An Act To create a Department of Corrections in the District of Columbia, approved June 27, 1946 (60 Stat. 320; D.C. Official Code § 24-211.02), is amended as follows:

(a) Paragraph (4) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(b) Paragraph (5) is amended by striking the period and inserting the phrase "; and" in its place.

(c) A new paragraph (9) is added to read as follows:

"(9) Cooperating with the Criminal Justice Coordinating Council by sharing data and allowing access to individuals under the age of 21 to the extent otherwise permissible under the law for the purpose of preparing the report described in section 1505(b-3) of the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 22-4234(b-3))."

Sec. 306. An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, approved July 15, 1932 (47 Stat. 697; D.C. Official Code § 24-403 *et seq.*), is amended as follows:

(a) Section 3a (D.C. Official Code § 24-403.01) is amended as follows:

(1) Subsection (c) is amended to read as follows:

"(c)(1) Except as provided under paragraph (2) of this subsection, a sentence under this section of imprisonment, or of commitment pursuant to section 4 of the Youth Rehabilitation Amendment Act of 1985, effective December 7, 1985 (D.C. Law 6-69; D.C. Official Code § 24-903), shall be for a definite term, which shall not exceed the maximum term allowed by law or be less than any minimum term required by law.

(2) Notwithstanding any other provision of law, if the person committed the offense for which he or she is being sentenced under this section while under 18 years of age:

"(A) The court may issue a sentence less than the minimum term otherwise required by law; and

"(B) The court shall not impose a sentence of life imprisonment without the possibility of parole or release.".

(3) A new subsection (c-1) is added to read as follows:

"(c-1) A person sentenced under this section to imprisonment, or to commitment pursuant to section 4 of the Youth Rehabilitation Amendment Act of 1985, effective December 7, 1985 (D.C. Law 6-69; D.C. Official Code § 24-903), shall serve the term of imprisonment or commitment specified in the sentence, less any time credited toward service of the sentence under subsection (d) of this section and subject to section 3c, if applicable.".

(4) Subsection (e) is amended by striking the phrase "person convicted of" wherever it appears and inserting the phrase "person who was over the age of 18 at the time of the offense and was convicted of" in its place.

(5) Subsection (f) is amended by striking the phrase "person convicted of" and inserting the phrase "person who was over the age of 18 at the time of the offense and was convicted of" in its place.

(b) A new section 3c is added to read as follows:

"Sec 3c. Modification of an imposed term of imprisonment for violations of law committed prior to age 18.

"(a) Notwithstanding any other provision of law, the court may reduce a term of imprisonment imposed upon a defendant for an offense committed prior to the defendant's 18th birthday if:

"(1) The defendant has served 25 years in prison for an offense that was committed and completed prior to the defendant's 18th birthday; and

"(2) The court finds, after considering the factors set forth in subsection (c) of this section, that the defendant is not a danger to the safety of any person or the community and that the interests of justice warrant a sentence modification.

"(b)(1) A defendant convicted as an adult of an offense committed prior to his or her 18th birthday may file an application for a sentence modification under this section. The application must be in the form of a motion to reduce the sentence. The application may include affidavits or other written material. The application shall be filed with the sentencing court and a copy shall be served on the United States Attorney.

"(2) The court may direct the parties to expand the record by submitting additional written materials related to the motion. The court must hold a hearing on the motion at which the defendant and the defendant's counsel must be given an opportunity to speak on the defendant's behalf. The court may permit the parties to introduce evidence.

"(3) The defendant must be present at any hearing conducted under this section unless the defendant waives the right to be present. Any proceeding under this section may occur by video teleconferencing and the requirement of a defendant's presence is satisfied by participation in the video teleconference.

"(4) The court shall issue an opinion in writing stating the reasons for granting or denying the application under this section.".

"(c) The court, in determining whether to reduce a term of imprisonment pursuant to subsection (a) of this section, shall consider:

"(1) The defendant's age at the time of the offense;

"(2) The nature of the offense and the history and characteristics of the defendant;

"(3) Whether the defendant has substantially complied with the rules of the institution to which he or she has been confined and whether the defendant has completed any educational, vocational, or other program, where available;

"(4) Any report or recommendation received from the United States Attorney;

"(5) Whether the defendant has demonstrated maturity, rehabilitation, and a fitness to reenter society sufficient to justify a sentence reduction;

"(6) Any statement provided pursuant to D.C. Official Code § 23-1094 by a victim of the offense for which the defendant is imprisoned, or by a family member of the victim if the victim is deceased;

"(7) Any reports of physical, mental, or psychiatric examinations of the defendant conducted by licensed health care professionals;

"(8) The defendant's family and community circumstances at the time of the offense, including any history of abuse, trauma, or involvement in the child welfare system;

"(9) The extent of the defendant's role in the offense and whether and to what extent an adult was involved in the offense;

"(10) The diminished culpability of juveniles as compared to that of adults, and the hallmark features of youth, including immaturity, impetuosity, and failure to appreciate risks and consequences, which counsel against sentencing them to a lifetime in prison; and

"(11) Any other information the court deems relevant to its decision.

"(d) If the court denies the defendant's 1st application under this section, a court shall entertain a 2nd application under this section no sooner than 5 years after the date that the order on the initial application becomes final. If a sentence has not been reduced after a 2nd application, a court shall entertain a 3rd and final application under this section no sooner than 5 years following the date that the order on the 2nd application becomes final. No court shall entertain a 4th or successive application under this section.

"(e) Any defendant whose sentence is reduced under this section shall be ordered to serve a period of supervised release pursuant to section 3a.

TITLE IV. YOUTH REHABILITATION ACCOUNTABILITY.

Sec. 401. Short Title.

This title may be cited as the "Rehabilitation Accountability Amendment Act of 2016".

Sec. 402. The Department of Youth Rehabilitation Services Establishment Act of 2004, effective April 12, 2005 (D.C. Law 15-335; D.C. Official Code § 2-1515.01 *et seq.*), is amended as follows:

(a) Section 101(12) (D.C. Official Code § 2-1515.01) is amended by striking the phrase "D.C. Official Code § 16-2301(3)" and inserting the phrase "D.C. Official Code § 16-2301(3) or other minor in the custody of the Department" in its place.

(b) Section 104 (D.C. Official Code § 2-1515.04) is amended as follows:

(1) Paragraph (13) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(2) Paragraph (14) is amended by the striking the period and inserting a semi-colon in its place.

(3) A new paragraph (15) is added to read as follows:

"(15) Within 180 days after the effective date of the Comprehensive Youth Justice Amendment Act of 2016, as approved by the Committee on the Judiciary on October 5, 2016 (Committee print of Bill 21-0683), developing a manual for families of juveniles residing in secure juvenile facilities that includes, at a minimum, information on the operation of the institution or facility as it relates to families of juveniles, information on government and community resources available for families of juveniles, and information and resources available for juveniles after leaving confinement;".

(4) A new paragraph (16) is added to read as follows:

"(16) Evaluating the effectiveness of rehabilitative services by collecting any available information from other District agencies on the education, employment, criminal justice, or other outcomes of persons who are either currently committed to the Department or who were committed to the Department in the previous 3 years; and".

(5) A new paragraph (17) is added to read as follows:

"(17) Cooperating with the Criminal Justice Coordinating Council by sharing data and allowing access to individuals under the age of 21 to the extent otherwise permissible under the law for the purpose of preparing the report described in section 1505(b-3) of the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 22-4234(b-3))."

(c) A new section 104b is added to read as follows:

"Sec. 104b. Data Collection.

"(a) The Department shall request any available records on the education, employment, criminal justice, or other outcomes of persons who are either currently committed to the Department or who were committed to the Department in the previous 3 years from the following agencies:

"(1) Office of the State Superintendent of Education;

"(2) Department of Health;

"(3) Department of Behavioral Health;

"(4) Child and Family Services Agency;

"(5) Department of Human Services;

"(6) District of Columbia Public Schools; and

"(7) Office of the Attorney General.

"(b) All records collected by the Department pursuant to this section shall be kept privileged and confidential pursuant to section 106.".

TITLE V. CONSTRUCTIVE NOTICE

Sec. 501. Chapter 3 of Title 13 of the District of Columbia Official Code is amended as follows:

(a) Section 13-336(a) is amended to read as follows:

"(a) In actions specified by subsection (b) of this section, publication may be substituted for personal service of process:

"(1) Upon a defendant who cannot be found and who is shown by affidavit to be a nonresident or to have been absent from the District for at least 6 months;

"(2) Upon a defendant who cannot be found after diligent efforts or who by concealment seeks to avoid service of process; or

"(3) Against the unknown heirs or devisees of deceased persons.".

(b) Section 13-340(a) is amended by striking the phrase "actions for divorce" and inserting the phrase "child custody proceedings, as defined in § 16-4601.01(4), or actions for divorce" in its place.

TITLE VI. FRAUD PREVENTION FUND REPEAL

Sec. 601. Section 126n of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982, (D.C. Law 4-164; D.C. Official Code § 22-3226.14), is repealed.

TITLE VII. FISCAL IMPACT; EFFECTIVE DATE.

Sec. 701. Applicability.

(a) Sections 102(c)(1)(A), (d), (e), (f)(2), and (g)(1)(A), 103, 302, 303, 304, 305, 402(b), and (c) shall apply upon the date of inclusion of their fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

Sec. 702. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 703. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.